

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2020-72 Rule Number He-C 4001 (various)

<p>1. Agency Name & Address: Dept. of Health & Human Services Child Care Licensing Unit 129 Pleasant Street, Brown Bldg. Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 170-E:34, I</u> 3. Federal Authority: _____ 4. Type of Action: <input checked="" type="checkbox"/> Adopt <input type="checkbox"/> Amendment (only if Initial Proposal was filed before 9/27/20.) <input type="checkbox"/> Repeal <input type="checkbox"/> Readoption <input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: **NH Residential Child Care Licensing Rules**

6. Contact person for copies and questions:

Name: **Allyson Zinno** Title: **Administrative Rules Coordinator**
 Address: **Dept. of Health & Human Services
Administrative Rules Unit
129 Pleasant Street, Brown Bldg.
Concord, NH 03301** Phone #: **(603) 271-9604**

7. The rulemaking notice appeared in the Rulemaking Register on **August 20, 2020**

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

10. Yes N/A The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

11. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Notice Number 2020-72

Rule Number He-C 4001 various

1. Agency Name & Address:
**Dept. of Health & Human Services
 Child Care Licensing Unit
 129 Pleasant Street
 Concord, NH 03301**

2. RSA Authority: RSA 170-E:34, I
 3. Federal Authority: _____
 4. Type of Action:
 Adoption X
 Amendment _____
 Repeal _____
 Readoption _____
 Readoption w/amendment X

5. Short Title: **NH Residential Child Care Licensing Rules**

6. (a) Summary of what the rule says and of any proposed amendments:

In accordance with the provisions of RSA 170-E:34, He-C 4001 sets forth the minimum health and safety standards necessary to establish, operate, and maintain a licensed residential child care program. RSA 170-E:34, I(b) specifically requires rules relative to “Minimum standards for facilities for specialized care, where there are children diagnosed as mentally ill, intellectually disabled, or physically disabled, who are determined to be in need of special mental treatment or nursing care, or both, when the facility is not subject to licensure under RSA 151.”

The Department of Health and Human Services, Child Care Licensing Unit (DHHS/CCLU) is proposing to readopt with amendment various sections of He-C 4001, specifically He-C 4001.01 and He-C 4001.02, He-C 4001.04, He-C 4001.07, He-C 4001.10, and He-C 4001.12 through He-C 4001.25, and adopt new sections He-C 4001.29 through He-C 4001.31. The proposed changes to He-C 4001 include:

- Updating the rule to include requirements surrounding the licensure of specialized care programs (SCPs), including substance use disorder (SUD) services;
- Updating He-C 4001.01 on definitions by:
 - Adding the definitions of “clinical coordinator”, “clinical staff”, “evaluation”, “full medical withdrawal management”, “licensed clinical supervisor”, “licensed counselor”, “limited medical withdrawal management”, “mechanical restraint”, “medical director”, “medical technology dependent”, “medication restraint”, “mental illness”, “nursing care”, “orders”, “procedure”, “rehabilitative and restorative services”, “reportable incident”, “social or non-medical withdrawal management”, “specialized care”, “substance use disorder”, “SUD program”, “volunteer”, and “withdrawal management”;
 - Amending the definitions of “direct care staff”, “licensed healthcare practitioner”, “pro re nata”, and “residential child care program”; and
 - Deleting the definition of “medication order”;
- Updating He-C 4001.02 on application for and attachments by adding the option of operating as an SCP and removing the requirements for background checks from this section, but which will be covered in He-C 4001.31;
- Updating He-C 4001.04 on time frames for a Departmental response to applications by amending that DHHS/CCLU shall approve or deny an application within 60 days of the receipt of all required information to remain in compliance with RSA 541-A:29;
- Updating He-C 4001.07 on complaints, investigations, and background checks by removing the requirements for background checks from this section, but which will be covered in He-C 4001.31;
- Updating He-C 4001.10 on the duties and responsibilities of the licensee by adding that the program shall provide opportunity and support to direct care staff who are witness or a party to an event that

falls under the mandated reporting requirements and removing the requirements for background checks from this section, but which will be covered in He-C 4001.31;

- **Updating He-C 4001.12 on communicable disease issues and health requirements for residents and other children to require that a child's health form include any diagnosis that might affect the child's or residents participation in the program, a list of medications the child is taking, both prescribed and over the counter, and the child's dietary needs, including special diets. He-C 4001.12 is also being amended to include training requirements for staff of a specialized care program who care for residents with special healthcare needs or who are medical technology dependent and the requirement that a written and signed order from a licensed practitioner be obtained for medications, treatment, and special diets of a resident who has special healthcare needs or who is medical technology dependent;**
- **Updating He-C 4001.13 on personal hygiene to add that the program staff assist residents who are medically technology dependent or whose functional needs require them to have help with personal hygiene;**
- **Updating He-C 4001.14 on prevention and management of injuries, incidents, emergencies, and infection control by adding the requirements that programs:**
 - **Develop policies on response to incidents;**
 - **Develop and maintain an information data sheet in the event of an emergency transfer to a medical facility;**
 - **Comply with various life safety requirements if a specialized care program is providing withdrawal management;**
 - **Develop and implement an operation plan and a continuity of operations plan; and**
 - **Develop and implements an infection control program and what the written procedures and education shall include.**
- **Updating He-C 4001.15 on medication services by amending medication storage requirements and adding the requirement for programs providing substance use disorder services to have additional written policies and procedures on the storage and administration of naloxone and on the prevention, detection, and resolution of controlled substance misuse;**
- **Updating He-C 4001.16 on child residential care space by adding the requirement that programs have a communication system in place and that any damage or hazardous conditions to the residence be addressed within a specific period of time;**
- **Updating He-C 4001.17 on the health and safety in the residential child care environment by amending paragraph (a) for clarification purposes;**
- **Updating He-C 4001.18 on water supply, septic systems, and bathroom facilities by amending paragraph (a) on water supply requirements to address documentation, testing, and a corrective action plan;**
- **Updating He-C 4001.19 on requirements for program staff by adding paragraphs (k) through (o) on orientation training and continuing education and including that personnel and staff shall not be impaired or expose residents to tobacco, alcohol, illegal drugs, or controlled substances;**
- **Updating He-C 4001.20 on staffing by amending staffing requirements to ensure the needs of the residents are being met;**
- **Updating He-C 4001.21 on programming requirements for residents by adding paragraphs (k) through (o) on discharge requirements, maximum number of residents allowed in the program, and new resident procedures;**
- **Updating He-C 4001.22 on discipline by amending the requirements of physical intervention;**
- **Updating He-C 4001.23 on incident reports by amending the requirements of incident reports to include reportable incidents, fire or emergency incidents, medication restraints, and unexplained absences;**

- Updating He-C 4001.24 on nutrition by amending paragraph (e) to include the requirement that programs shall meet the nutritional needs of a resident who follows a therapeutic diet;
- Updating He-C 4001.25 on transportation and trips by adding the requirement that programs must comply with RSA 126-U:12 on the use of mechanical restraints during the transport of residents;
- Adding new section, He-C 4001.29 on specialized care programs, which establishes the criteria and procedures for New Hampshire residential child care programs to obtain the license required to operate a residential care program offering “specialized care”;
- Adding new section, He-C 4001.30 on treatment planning process for specialized care programs; and
- Adding new section, He-C 4001.31 on background checks and determination of eligibility for employment.

6. (b) Brief description of the groups affected:

The groups affected by this rule are the youth of NH who are participants in one of the residential child care programs, as well as currently licensed and prospective residential child care programs.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

RULE	STATUTE
He-C 4001.01	RSA 170-E:24; RSA 170-E:25; RSA 170-E:34
He-C 4001.02	RSA 170-E:28; RSA 170-E:29-a
He-C 4001.04	RSA 541-A:29
He-C 4001.07	RSA 170-E:29; RSA 170-E:29-a; RSA 170-E:34, I(e); RSA 170-E:40; RSA 170-E:49
He-C 4001.10	RSA 170-E:33, II; RSA 170-E:34, I(a)(1), (7); RSA 170-E:34, I(c)
He-C 4001.12	RSA 170-E:34, I(a)(4); RSA 170-E:34, I(a)(5); RSA 170-E:42; RSA 141-C
He-C 4001.13	RSA 170-E:34, I(a)(4); RSA 170-E:34, I(a)(5)
He-C 4001.14	RSA 170-E:34, I(a)(4); RSA 170-E:34, I(b); RSA 126-U:7, II
He-C 4001.15	RSA 170-E:34, I(a)(4),(5),(6); RSA 170-E:42
He-C 4001.16	RSA 170-E:34, I(a)(4); RSA 126-U:5-b
He-C 4001.17	RSA 170-E:34, I(a)(4)
He-C 4001.18	RSA 170-E:34, I(a)(4)
He-C 4001.19	RSA 170-E:34, I(a)(2)
He-C 4001.20	RSA 170-E:34, I(a)(2); RSA 170-E:34, I(b)
He-C 4001.21	RSA 170-E:34, I(a)(5), (7)
He-C 4001.22	RSA 170-E:34, I(a)(9); RSA 126-U; RSA 126-U:7
He-C 4001.23	RSA 170-E:34, I(a)(7); RSA 126-U:7; RSA 126-U:10
He-C 4001.24	RSA 170-E:34, I(a)(5)
He-C 4001.25	RSA 170-E:34, I(a)(5); RSA 265:107-a
He-C 4001.29	RSA 170-E:25, II(c); RSA 170-E:34, I(b)
He-C 4001.30	RSA 170-E:25, II(c); RSA 170-E:34, I(b)
He-C 4001.31	RSA 170-E:29-a, I and I-a; RSA 170-E:34, I.(a)(2)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Allyson Zinno** Title: **Administrative Rules Coordinator**
Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: **allyson.zinno@dhhs.nh.gov**
Concord, NH 03301
TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, September 22, 2020**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, September 15, 2020 at 1:00pm.**
Place: **[DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH](#)**

This meeting can also be accessed via zoom using the below information:

Join Zoom Meeting: <https://nh-dhhs.zoom.us/j/2744551778?pwd=RnJxZFVPMlllOQ3pqQW5FZ09YR2xidz09>
Meeting ID: **274 455 1778**
Password: **866326**

One tap mobile: **+13126266799,,2744551778#,1#,866326# US (Chicago)**
+16465588656,,2744551778#,1#,866326# US (New York)
Dial by your location: **+1 312 626 6799 US (Chicago)**
+1 646 558 8656 US (New York)
+1 301 715 8592 US (Germantown)
+1 346 248 7799 US (Houston)
+1 669 900 9128 US (San Jose)
+1 253 215 8782 US (Tacoma)

The following email address will be monitored during the meeting if there is any public access or technical problems during the meeting: allyson.zinno@dhhs.nh.gov.

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 20:065, dated August 3, 2020

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable with respect to He-C 4001.29 through 4001.31, as these are new rules. With respect to the remaining rules, the proposed rules may have an indeterminable impact on state citizens, and increase costs to independently-owned businesses by an indeterminable amount.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**

A. **To State general or State special funds:**

None.

B. **To State citizens and political subdivisions:**

State citizens with minor children requiring placement in a residential program that offers residential care may benefit from the services authorized by the proposed rule. The Department of Health and Human Services states that it is unknown if families will bear any portion of the cost of such placements.

C. **To independently owned businesses:**

The proposed He-C 4001.29 through 4001.31 are new rules that regulate specialized care programs. The Department states that there are no specialized care programs currently licensed in New Hampshire. Businesses that wish to operate a residential program offering specialized care will need to budget in accordance with the proposed rules when planning and developing the program. To the extent that any currently licensed programs provide specialized care (excluding substance use disorder services (SUD)), the Department estimates that the fiscal impact, if any, will be minimal as those programs are already providing the care necessary to maintain residents at the higher level of care. There are no SUD programs currently licensed under He-C 4001 and, therefore, no fiscal impact.

Per the Department, facilities may incur costs as a result of the various proposed amendments to He-C 4001 through 4001.28. Changes with potential fiscal impacts include, but may not be limited to, the following:

1. **The requirement to access nursing and/or medical care for all children placed in a program who are diagnosed as having functional limitations and are dependent upon or require medical technology for their health.** The fiscal impact, if any, of this provision is indeterminable. To the extent that currently licensed programs have residents who are dependent on medical technology, the programs are already meeting these needs, and so there is no fiscal impact.
2. **The requirement for programs that provide SUD services, including withdrawal management, to comply with National Fire Protection Association (NFPA) 101.** The cost to comply with these life/safety requirements is unknown.
3. **The requirements for hard wired smoke detectors on every level and in every bedroom of the residence.** The cost to comply with this requirement is indeterminable.
4. **The requirement that a dedicated ventilation system be in place for programs that allow smoking on the premises.** The decision to allow smoking on-site is optional and, therefore, any fiscal impact is unknown but not mandated by the rule.
5. **The requirement that schedule II controlled substances to be kept in a separately locked compartment within a locked medication storage area.** The cost, if any, to implement this requirement is unknown.
6. **The requirement that a communication system be in place so that staff and residents can effectively contact personnel as needed and in case of an emergency.** The Department states that there are many options for communication systems, ranging from walkie-talkies to intercom systems, which may be a feature of telephone systems. The cost to implement this requirement is unknown.
7. **The requirement that programs provide all personnel with annual continuing education on certain topics.** The current rule already requires annual continuing education requirements. The cost to include the proposed required topics is unknown.

8. **The requirement that licensees ensure that medically recommended glasses, hearing aids, prosthetic devices, corrective physical or dental devices, or any equipment recommended or treatments prescribed be provided to the resident.** The cost of compliance with this rule may be borne by the parent or guardian, including the Department, if the resident is under Department guardianship. Such costs are unknown.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules modify an existing program or responsibility, but do not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore do not violate Part I, Article 28-a of the N.H. Constitution.

See comments on pages 3-6, 9, 10, 18, 19, 20, 26, 28, 47, 48, and 58, and Note to JLCAR on p.

CHAPTER He-C 4000 CHILD CARE LICENSING RULES

STATUTORY AUTHORITY: RSA 170-E:34, I

PART He-C 4001 NH RESIDENTIAL CHILD CARE LICENSING RULES

Readopt with amendment He-C 4001.01 through He-C 4001.02, effective 10-23-14 (Document #10705), to read as follows:

He-C 4001.01 Definitions.

(a) “Administer” means an act whereby a single dose of a drug is instilled into the body of, applied to the body of, or otherwise given to a resident for immediate consumption or use.

Edit: comma

(b) “Applicant” means a person, corporation, partnership, voluntary association or other organization, either established for profit or otherwise, who intends to operate one or more residential child care programs, and who indicates that intent to the department by submitting an application and the application attachments required by He-C 4001.02.

(c) “Authorized staff” means program staff that have completed training in medication safety and administration who are responsible for administration of medications to residents.

(d) “Child” means “child” as defined in RSA 170-E:25, I.

(e) “Child abuse” means the infliction on a child of any of the behaviors set forth in RSA 169-C:3, II (a) - (d).

(f) “Child care institution” means “child care institution” as defined in RSA 170-E:25, III.

(g) “Child endangerment” means the negligent violation of a duty of care or protection owed to a child or negligently inducing a child to engage in conduct that endangers his or her health or safety.

(h) “Child neglect” means any of the behaviors or circumstances set forth in RSA 169-C:3, XIX (a) or (b).

(i) “Clinical coordinator” means a staff member employed by the residential treatment program responsible for administrative oversight of the clinical services provided at the program. This term includes “treatment coordinator.”

(j) “Clinical staff” means individuals who have a master’s degree in a clinical field such as social work, marriage and family therapy, psychology, guidance counseling, or a degree that would make one eligible for a license from the NH board of mental health practice or NH board of psychologists.

(k) “Commissioner” means the commissioner of the NH department of health and human services, or his or her designee.

(l) “Corporal punishment” means use of aggressive physical contact or other action designed to cause the resident discomfort, used as a penalty for behavior disapproved of by the punisher.

(m) “Corrective action plan” means “corrective action plan” as defined in RSA 170-E:25, VI.

(n) “Department” means “department” as defined in RSA 170-E:25, VII.

(o) “Direct care staff” means program staff who are responsible for providing direct care to residents.

(p) “Directed corrective action plan” means a corrective action plan that is developed and issued by the department.

(q) “Evaluation” means a multi-disciplinary assessment of the resident’s level of function by professionals licensed or certified in their respective fields of practice or study, which enables facility staff to plan care that allows the resident to reach his or her highest practicable level of physical, mental, and psychosocial functioning.

(r) “Field trip” means any excursion off the premises of the residential child care program with residential child care staff, other than routine or unplanned local travel such as walks in the neighborhood, travel to the local library, or other routine travel such as travel to and from school, employment, local appointments or travel to do local errands.

(s) "Full medical withdrawal management" means a protocol for a resident receiving 24-hour nursing supervision overseen by a licensed practitioner, who may be incapable of evacuating a facility on his or her own or may have medical conditions that require immediate medical intervention, such as seizures, tremors, delirium, cardiac, or a danger to themselves or others.

Edit: “or are a”

(t) “Group home” means “group home” as defined in RSA 170-E:25, II(b).

(u) “Guardian” means “guardian” as defined in RSA 170-E:25, IX.

Edit: comma

(v) “Homeless youth” means a person 16 through 20 years of age who is unaccompanied by a parent or guardian and is without shelter where appropriate care and supervision are available, whose parent or legal guardian is unable or unwilling to provide shelter and care or who lacks a fixed, regular and adequate residence.

(w) “Homeless youth program” means “homeless youth program” as defined in RSA 170-E:25, II(d).

(x) “Household member" means any person who resides in a child care program other than child care personnel or children admitted to the child care program.

(y) “Incident” means:

- (1) Resident behavior that is extreme, including, but not limited to, behavior that is assaultive, destructive, self-injurious, or self-destructive;
- (2) Any behavior leading to physical intervention or seclusion of a resident; or
- (3) An occurrence involving an accident or injury, or requiring outside agency involvement.

(z) “Independent living” means transition to adulthood whereby the resident negotiates living on his or her own with a set of skills and goals based on the resident’s needs and interests.

(aa) “Independent living home” means “independent living home” as defined in RSA 170-E:25, X.

(ab) “License” means “license” as defined in RSA 170-E:25, XI.

(ac) “License capacity” means the maximum number of residents that can be admitted to and present in the residential child care program, as authorized by the license issued.

(ad) “Licensed clinical supervisor” means a registered nurse (RN) licensed under the state of New Hampshire pursuant to RSA 326-B, or an individual licensed by the board of licensing for alcohol and other drug use professionals or board of mental health practice to practice and supervise substance use counseling who meets the initial licensing qualifications set forth in RSA 330-C:18.

(ae) “Licensed counselor” means a master licensed alcohol and drug counselor (MLADC), a licensed alcohol and drug counselor (LADC), or a licensed mental health professional who has demonstrated competency in the treatment of substance use disorders (SUD).

(af) “Licensed health care practitioner” means a:

Edit: space

- (1) Medical doctor;
- (2) Physician’s assistant;
- (3) Advanced practice registered nurse (APRN);
- (4) Doctor of osteopathy;
- (5) Doctor of naturopathic medicine; or
- (6) Any other practitioner with diagnostic and prescriptive powers licensed by the appropriate state licensing board.

Unclear: This appears to be a substantive rule, not part of the definition. As such, it should be moved.

Edit: “is medically”

(ag) “Limited medical withdrawal management” means a resident is capable of evacuating the facility without assistance, medically cleared to participate in limited medical withdrawal management by a licensed practitioner prior to or at the time of admission, and is not a danger to themselves or others. Residents may be receiving maintenance medication for the symptoms of withdrawal or side effects but not need immediate medical intervention.

Edit: “with”

(ah) “Mechanical restraint” means “mechanical restraint” as defined in RSA 126-U:1, IV.

(ai) “Medical director” means a practitioner licensed in accordance with RSA 329 or RSA 326-B, who is responsible for overseeing the quality of medical care and services in a specialized care program.

(aj) “Medical technology dependent” means a resident that has limitations so severe as to require both an assistive medical technology device to compensate for the loss of a vital body function and significant and sustained care to avert death or further disability. Assistive medical technology devices may include, but are not limited to tracheostomy tube, feeding tube, c-pap or bi-pap machines, and wheelchairs.

Edit: Delete.

(ak) “Medication” means a drug prescribed for a resident by a licensed health care practitioner and over-the-counter medications.

(al) “Medication log” means a written record of medications administered to a resident.

(am) “Medication occurrence” means any error in the administration of a medication as prescribed or in the documentation of such administration, with the exception of a resident’s refusal.

(an) “Medication restraint” means “medication restraint” as defined in RSA 126-U:1, IV(a).

(ao) “Mental illness” means a substantial impairment of emotional processes, or of the ability to exercise conscious control of one's actions, or of the ability to perceive reality or to reason, when the impairment is manifested by instances of extremely abnormal behavior or extremely faulty perceptions. It does not include impairment primarily caused by: (a) epilepsy; (b) intellectual disability; (c) continuous or non-continuous periods of intoxication caused by substances such as alcohol or drugs; or (d) dependence upon or addiction to any substance such as alcohol or drugs.

Edit: Either list (a)-(d) as subdivisions or write them out as part of one sentence.

(ap) “Monitoring visit” means an announced or unannounced visit made to a residential child care program by department personnel for the purpose of assessing compliance with the standards set by rule adopted by the commissioner pursuant to RSA 541-A.

(aq) “Nursing care” means the provision or oversight of a resident’s physical, mental, or emotional condition by diagnosis as confirmed by a licensed practitioner.

(ar) “Orders” means instructions by a licensed practitioner, produced verbally, electronically, or in writing for medication, treatments, recommendations, and referrals, and signed by the licensed practitioner using terms such as authorized by, authenticated by, approved by, reviewed by, or any other term that denotes approval by the licensed practitioner.

(as) “Parent” means a father, mother, legal guardian or other person or agency responsible for the placement of a resident.

Edit: comma

(at) “Permanency” means a permanent connection with at least one adult committed to helping the homeless youth meet his or her needs throughout his or her life.

(au) “Physical intervention” means a behavior management technique in which staff use the minimum amount of physical contact on a resident, which is necessary for the circumstances, in accordance with RSA 627:6, II(b) and RSA 126-U, to protect the resident, other residents present, the staff, and the general public.

(av) “Pre-service training” means training or education required to meet the minimum qualifications for the position of program director, as specified in He-C 4001.19 (e), or direct care staff, as specified in He-C 4001.19 (f).

Unclear: It is unclear whether the intent is to include “Restraint” in RSA 126-U:1, IV.

(aw) “Procedure” means a licensee’s written, standardized method of performing duties and providing services.

(ax) “Program director” means the individual who has responsibility for the daily operation of the residential child care program.

(ay) “Program staff” means all staff, both professional and non-professional, including direct care staff, who are responsible for the supervision, care, or treatment of residents.

(az) “Pro re nata (PRN)” means medication administered as circumstances may require in accordance with licensed practitioner’s orders.

Edit: “his or her”

(ba) “Rehabilitative and restorative services” means interventions provided including any medical or remedial services recommended by a physician or other prescribing practitioner within the scope of the residential treatment program’s practice to reduce a physical or mental disability and restore a recipient to their best functional level.

(bb) “Regular contact” means being in the presence of residents at the residential childcare program for more than 5 hours per week.

(bc) “Repeat violation” means a violation of a specific licensing rule or law for which the program has been previously cited during the past 5 years, which has not been removed as a result of an informal dispute resolution or overturned as a result of an adjudicatory procedure and that posed a health or safety risk to residents.

(bd) “Reportable incident” means an occurrence of any of the following while the resident is either in the program or in the care of program personnel:

Legis. Intent: RSA 170-E:25, XIII defines “regularly” or “on a regular basis”. It is unclear why the Department is using a different definition.

- (1) The death of the resident;
- (2) Suspected abuse or neglect of the resident; or
- (3) The unexplained absence of a resident from the program.

(be) "Resident" means a child who has been admitted to a residential child care program.

Edit: "means"

(bf) "Residential child care program (program)" means "child care agency" as defined in RSA 170-E:25, II. The term also mean "child-care institution" as defined in 42 CFR § 672(c)(2)(a).

(bg) "Restraint" means "restraint" as defined by RSA 126-U:1, IV.

(bh) "Runaway" means a child who is absent without leave or permission from the program that is responsible for the supervision of that child.

(bi) "Sanitize" means to clean by removing all organic material then wiping down or washing with a disinfecting or germicidal solution consisting of one tablespoon of regular strength chlorine bleach to one gallon of water which is mixed fresh daily, or a commercial product which is designed to kill germs and which, when used in accordance with manufacturer's directions, does not pose a health or safety risk to residents.

(bj) "Seclusion" means "seclusion" as defined in RSA 126-U:1, V-a.

(bk) "Short term" means a placement which is intended to last for 60 days or less, unless the residential child care program has written documentation on file that the 60 day period has been extended by the department's division for children, youth and families (DCYF), juvenile justice services (JJS), or by the referring agency.

Legis. Intent: This appears inconsistent with the statutory definition.

(bl) "Social or non-medical withdrawal management" means a treatment service provided by appropriately trained staff who provide 24-hour supervision, observation, and support for residents who are intoxicated or experiencing withdrawal with no staff-administered medication.

(bm) "Specialized care" means "specialized care" as defined in RSA 170-E:25, II(c). Such care includes substance use disorder and behavioral health. The term also includes "specialized care program (SCP)"

(bn) "Substance use disorder (SUD)" means a disease that affects a person's brain and behavior and may lead to an inability to control the use of a legal or illegal substance. Substances can include alcohol and other drugs, as well as some substances that are not drugs at all.

Unclear what might be included.

(bo) "SUD program" means a residential program, excluding hospitals as defined in RSA 151:2,I(a), which provides residential substance use disorder (SUD) treatment relating to the youth's medical, physical, psychosocial, vocational, and educational needs

Edit: "SUD"

(bp) "Time out" means the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident the opportunity to regain self-control or as a consequence to a specific behavior.

Edit: comma

(bq) "Treatment plan" means the program's written, time-limited, goal-oriented therapeutic plan for the child and family, which includes strategies to address the issues that brought the child into placement, and which is developed by the family, program staff and the agency responsible for the placement of the child. This includes, but is not limited to, a child specific planning document prepared in cooperation with DCYF, JJS, a school district or other placing or sending organization. A treatment planning document that complies with certification requirements satisfies licensing requirements.

Edit: comma

(br) “Unit” means the department’s child care licensing unit.

(bs) “Volunteer” means an unpaid person who assists with the provision of food services or activities, and who does not provide direct care or assist with direct care.

(bt) “Withdrawal management” means a residential treatment service provided by appropriately trained staff who provide 24-hour supervision, observation, and support for youth who are intoxicated or experiencing withdrawal with prescription medication administered based on the results of an appropriate evaluation tool.

He-C 4001.02 Application Form and Attachments.

(a) All applicants for licensure shall complete and submit an application form to the department, which includes:

Unclear: The form has not been received and reviewed by Committee staff, so it is not clear if the form and rule are consistent.

- (1) Whether the application is for a new, renewed, or revised license;
- (2) Whether the program will operate a group home, child care institution, independent living home, homeless youth shelter, or specialized care program;
- (3) Whether the applicant, owner, or business organization intends to provide short-term placements;
- (4) The name, physical address, mailing address, and telephone number of the program;
- (5) The name, telephone number, and mailing address of the applicant, owner, or business organization;
- (6) An e-mail address for the program and the applicant, owner, or business organization, if available;
- (7) Federal tax identification number if one has been assigned;
- (8) A list of all buildings in which residents will be cared for which identifies:
 - a. The building identifier;
 - b. The building’s purpose or function;
 - c. The type(s) of residential child care services that the applicant, owner or business organization intends to offer in the building as specified in He-C 4001.02 (a)(2) above; and
 - d. The proposed number of residents and age range to be cared for in each residential building;
- (9) The total requested resident capacity of the program;
- (10) How the program is owned and organized, whether private, partnership, or other organization type, including name of business organization, business identification number, the names, title/position, and telephone numbers of the officers of the business or board members, if applicable;
- (11) Whether the program will be operating as for-profit or non-profit;
- (12) The name, birth name(s) and date of birth of the program director;
- (13) The qualifications of the program director, including education and experience;

Edit: “and”

Edit: comma

(14) For persons who have regular contact with residents in the residential child care program, excluding residents who are admitted to the program, and including any applicant, owner, officer of the business organization, program director, executive director, board member, household member, program staff, intern, volunteer or any other individual in the state of New Hampshire or the United States, information and details disclosed by the individual on their application for employment, or otherwise known by the program, regarding the following:

- a. Criminal convictions in a state other than New Hampshire;
- b. Current criminal investigations in any state;
- c. Current investigations of child abuse or neglect in any state;
- d. Previous findings of child abuse or neglect in a state other than New Hampshire;
- e. Current investigation of juvenile delinquency for juvenile household members; and
- f. Previous adjudications of juvenile delinquency for juvenile household members;

(15) The information required by (14) above shall include:

- a. The name and position or affiliation of the individual;
- b. Whether this information is a charge, allegation, conviction, finding, or current investigation;
- c. The name and city of the court of DCFY office in which the case was handled, as applicable; and
- d. The date of any conviction or finding;

(16) A statement dated and signed by the program director and the applicant, or an individual legally authorized to sign for the applicant attesting to the following:

“I HAVE READ AND AM IN COMPLIANCE WITH ALL APPLICABLE RULES IN He-C 4001”;

“I UNDERSTAND THAT THE DEPARTMENT MAY INVESTIGATE ANY CRIMINAL CONVICTION RECORD, FINDING OF CHILD ABUSE OR NEGLECT, OR INVESTIGATION OF OR FINAL DETERMINATION REGARDING ANY JUVENILE DELINQUENCY AND WILL MAKE A DETERMINATION REGARDING WHETHER THE INDIVIDUAL POSES A CURRENT RISK TO THE HEALTH, SAFETY OR WELL BEING OF CHILDREN”;

“I UNDERSTAND THAT THE DEPARTMENT MAY DELAY ITS DECISION TO APPROVE OR DENY THIS APPLICATION PENDING THE OUTCOME OF ANY INVESTIGATION, WHEN THE APPLICANT, OWNER, OR PROGRAM DIRECTOR, ARE NAMED AS THE PERPETRATOR IN ANY CURRENT INVESTIGATION OF ANY CRIME, OR IN AN ALLEGATION OF ABUSE OR NEGLECT”;

“I UNDERSTAND THAT PROVIDING FALSE INFORMATION ON THIS APPLICATION OR ANY OF THE ATTACHMENTS, OR FAILING TO DISCLOSE ANY INFORMATION REQUIRED ON THE APPLICATION, OR REQUIRED TO BE

SUBMITTED WITH THIS APPLICATION, SHALL BE CONSIDERED GROUNDS FOR LICENSE DENIAL OR REVOCATION”;

“I HAVE READ THE NH RESIDENTIAL CHILD CARE PROGRAM LICENSING RULES, AND UNDERSTAND THAT FAILURE TO MAINTAIN MY PROGRAM IN COMPLIANCE WITH THE APPLICABLE RULES, MAY JEOPARDIZE MY LICENSE/PERMIT”;

“I AUTHORIZE ANY POLICE DEPARTMENT, COURT SYSTEM OR HUMAN SERVICE AGENCY IN THIS OR ANY OTHER STATE TO RELEASE COPIES OF ANY CRIMINAL RECORDS OR CHILD ABUSE OR NEGLECT RECORDS TO THE DEPARTMENT”;

“ALL INFORMATION PROVIDED AS PART OF THIS APPLICATION AND IN THE REQUIRED ATTACHMENTS IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE”;

(17) The position of the individual who signed pursuant to (16) above, such as applicant, board president, board secretary, executive director, or program director;

(18) For each building, a floor plan diagram of indoor residential childcare space which shall specify:

- a. Room dimensions;
- b. Location of exits;
- c. How each room will be used;
- d. The location of bathrooms and bathroom fixtures, including toilets, sinks, bathtubs and showers;
- e. The location of other hand-washing sinks; and
- f. The length, width and ceiling height of each bedroom;

(19) For each building, a diagram of outdoor play and recreation space which shall specify:

- a. The overall dimensions of the outdoor play space including the length and width of the space;
- b. The locations of exits, gates and stationary outdoor play or recreation equipment, including the location of and type of fencing, if any, including gates;
- c. The location of the outdoor play space in relation to the indoor space; and
- d. The location and description of any outdoor water and street hazards including the presence of and location of any pools, ponds, streams, rivers, streets, roads, or other hazards that are in close proximity;

(20) For renewal or revisions applications, diagrams as specified in (18) and (19) above if changes have been made in the residential child care space since the last application submitted to the department; and

Edit: comma

(21) For renewal or revision applications, a check mark in the box on the form, indicating when no changes have been made to residential child care space since the last application submitted to the department.

(b) Residential child care programs that have multiple buildings on the same or adjoining property may apply for a single license for those multiple buildings provided that:

(1) In accordance with residential child care space requirements specified in He-C 4001.16, each residence has adequate square footage, common living space and complete bathroom units for the number of residents who will reside in each building;

Edit: comma

(2) An individual who meets at least the minimum qualifications of a direct care staff is designated in charge in each building; and

(3) All program staff and residents are aware of the identity of the direct care staff who is designated in charge in each building.

(c) With the application, the applicant shall submit to the department a completed "Health Officer Inspection Report for Residential Child Care Agencies" form (10/2014 edition) completed by the local health officer or duly appointed designee, for each building inspected, documenting that within the 12 months of the date the department receives the application, the premises have been inspected and approved by a local health officer or duly appointed designee for operation as a residential child care program.

Edit: "a"

(d) With the application, the applicant shall submit to the department a completed NH State Fire Code compliance report documenting that, within the 12 months of the date the department receives the application, the premises have been inspected by the local fire department or the state fire marshal's office, for compliance with the applicable parts and sections of the State Fire Code, under RSA 153:1, VI-A and Saf-FMO 300, including but not limited to NFPA 1 and NFPA 101, and as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5, and approved to operate as a residential child care program.

(e) The NH State Fire Code compliance report required under (d) above shall include the following:

(1) Completed by either program personnel or the fire inspector:

Edit: comma

a. The name, address, telephone number, and license number of the residential child care program;

Seems a form. See comment to (a) above (p. 6).

Edit: Place in quotes.

b. The name of the applicant;

c. The type of residential child care to be provided; and

d. The number and age range of residents for whom the applicant intends to provide care; and

(2) Completed by the fire inspector:

a. The date the premises were inspected by the fire inspector;

b. For each building which will be used by residents:

1. An indication regarding whether the fire inspector approves or does not approve the premises to operate as a residential child care program;

Edit: "a"

2. Any areas of non-compliance with the State Fire Code, under RSA 153:1, VI-A and Saf-FMO 300, including but not limited to NFPA 1 and NFPA 101, and as amended by

Edit: comma

Unclear: The former State Fire Code in Saf-C 6000 is now in Saf-Fmo 300, but other provisions of the former Saf-C 6000 remain in the amended Saf-C 6000 as Fire and Life Safety Rules. Unclear if provisions in the amended Saf-C 6000 should be cited here too.

the state board of fire control and ratified by the general court pursuant to RSA 153:5; and

3. Any conditions or restrictions placed by the fire inspector, including but not limited to, any limits relative to the number and age range of residents to be cared for in the program or any rooms, levels or other areas of the premises not approved for use by residents;

Edit: comma

c. An indication whether or not the fire inspector:

1. Approves or does not approve the residential agency type(s) to operate; or

Unclear: Does not follow intro of c.

2. When a conditional approval is granted:

(i) Details regarding what action must be taken; and

(ii) The date the conditional approval will expire;

d. The printed name, address, telephone number, and title of the fire inspector;

e. The dated signature of the fire inspector; and

f. The city or town in which the fire inspector has authority.

(f) With the application, the applicant shall submit to the department documentation from the applicable town or city that the program has been granted zoning approval or a statement that no zoning approval is required.

(g) The zoning documentation required in (f) above shall include the following:

(1) The name and address of the program;

(2) The name of the applicant;

(3) Any zoning requirements or restrictions imposed by the town or city regarding the existence of the program, including any limits regarding ages or number of residents to be cared for in the program, and any buildings on the property that do not have zoning approval; and

(4) The signature of an individual authorized to sign on behalf of zoning, and date signed.

(h) With the application, the applicant shall submit to the department background check forms as specified in He-C 4001.31 for each of the following:

(1) The applicant;

(2) All household members; and

(3) All program directors.

(i) With the application, the applicant shall submit to the department documentation of education and experience that shows that the program director meets the requirements for his or her position, as specified in He-C 4001.19(e).

(j) The documentation of education and experience required under (i) above shall include the following:

(1) Copies of transcripts, certificates, diplomas, or degrees as applicable; and

Edit: comma

- (2) A resume or other documentation of previous experience.
- (k) With the application, applicants that are incorporated shall submit to the department a list of the names, addresses and telephone numbers of the current board members.

Readopt with amendment He-C 4001.04, effective 10-23-14 (Document #10705), to read as follows:

He-C 4001.04 Time Frames for Departmental Response to Applications.

- (a) Pursuant to RSA 541-A:29, the department shall approve or deny an application no later than 60 days from receipt of the application and any additional information requested by the department.
- (b) The 60 days specified in (a) above shall begin on the date on which all requested information is received by the department.
- (c) Any outstanding corrective action plan for violations of rule or statute shall be considered additional information under (a) above.

Readopt with amendment He-C 4001.07, effective 10-23-14 (Document #10705), to read as follows:

He-C 4001.07 Complaints and Investigations.

- (a) In accordance with RSA 170-E:40, I and II, the department shall conduct an investigation of any complaint that meets the following conditions:

- (1) The alleged violations occurred not more than 6 months prior to the date the department was made aware of the allegation(s);
- (2) The complaint is based upon the complainant's first hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a resident who has first hand knowledge regarding the allegation(s);
- (3) The complaint contains sufficient specific information for the department to determine that the allegation(s), if proven to be true, would constitute a violation of any of the provisions of He-C 4001 or RSA 170-E; or
- (4) The complaint is received from any source and alleges a violation that occurred at any time if the complaint alleges:
- a. Physical injury;
 - b. Verbal or emotional abuse so severe as to create a risk of psychological trauma; or
 - c. One or more residents were placed in danger of physical injury.
- (b) After the investigation of a complaint has been completed, the department shall:
- (1) When it determines that the complaint is unfounded or does not violate any statutes or rules, notify the program and take no further action;
 - (2) When it determines that the complaint is founded, prepare a statement of findings listing the violations found as a result of the investigation and any other violations found during the visit; and
 - (3) Notify the licensee in writing of the findings.

Edit: hyphen

(c) The records compiled during an investigation shall be confidential as required by RSA 170-E:40, III.

Readopt with amendment He-C 4001.10, effective 10-23-14 (Document #10705), to read as follows:

He-C 4001.10 Duties and Responsibilities of the Licensee.

- (a) The program shall abide by the provisions specified on the license.
- (b) Program staff shall:
- (1) Display a copy of the current license issued by the department in a prominent location in each building in which residents are housed; and
 - (2) Not alter the license issued by the department.
- (c) A license shall not be transferable to a new owner or new location.
- (d) Any licensee, program staff or other person involved with a program who has reason to suspect that a resident is being abused or neglected shall report the suspected abuse to DCYF at 1-800-894-5533.
- (e) When direct care staff who are witness or party to any event that meets the mandated reporting requirement in RSA 169-C:29, the program shall provide opportunity and support to such staff to make the required report. Whenever possible, the staff directly involved or witness to the event shall make reports to the department, with assistance from administrative staff as needed to assure all necessary information is available to make a complete report.
- (f) Program staff shall safeguard the confidentiality of all records and personal information regarding any resident.
- (g) Applicants, licensees and all program staff shall keep confidential all records required by the department pertaining to the admission, progress, health and discharge of residents under their care and all facts learned about residents and their families with the following exceptions:
- (1) Program staff shall, upon request, make available to the department all records that programs are required by RSA 170-E or He-C 4001 to keep, and to such records as necessary for the department to determine staffing patterns and staff attendance; and
 - (2) Other than as specified in (g)(1) above, program staff shall release information regarding a specific resident only as directed by a parent of that resident, or upon receipt of written authorization to release such information, signed by that resident's parent, unless otherwise restricted by applicable state or federal law.
- (h) Information collected by the department during the application process may be released:
- (1) To the applicant, licensee or his or her designated representative;
 - (2) Upon receipt of written authorization by the applicant or licensee to release information; or
 - (3) To federal, state and local officials or the entities that provided reports.

(i) Except for law enforcement agencies or in an administrative proceeding against the applicant or licensee, the department shall keep confidential any information collected during an investigation, unless it receives an order from a court of competent jurisdiction ordering the release of specific information.

(j) Applicants, licensees, members of the board of directors or other governing body, program staff, child care interns, child care assistants, and volunteers shall cooperate with the department during all departmental visits authorized under RSA 170-E and He-C 4001.

(k) For the purposes of (j) above, cooperation shall include, but not be limited to not interfering with efforts by representatives of the department to:

- (1) Enter the premises and complete an inspection;
- (2) Document evidence or findings by taking written statements, and by photographing toys, equipment, and learning materials or conditions inside or outside residential child care space and other areas of the premises accessible to residents;
- (3) Make an audio recording of conversations with individuals who have consented to the audio recording;
- (4) Interview program staff, members of the board of directors or other governing body, child care interns, child care assistants, volunteers, residents enrolled in the program and any other individual whom the department determines might have information relevant to the issues being evaluated; and
- (5) Review and reproduce any forms or reports which the applicant or licensee is required to maintain or make available to the department under He-C 4001.

(l) Administrators, other program staff or other individuals shall not:

- (1) Require or request that the individual being interviewed ask that another person be present for the interview;
- (2) Attempt to influence the response of any individual being interviewed by signaling them during the interview, telling them what to say, or threatening them with retaliation for providing information to the department; or
- (3) Require staff or residents who have been interviewed to provide statements to program administration regarding their interview.

(m) Any violation of (l) above or any attempt by or on behalf of program staff, administrators, or other individuals to prevent program staff, residents, or other individuals from responding to questions by the department, or from making a good faith report to the department regarding any concerns they have about the operation of the program relating to statutory or regulatory requirements shall be considered failure to cooperate with the department as specified in (j) and (k) above.

(n) Except for He-C 4001.12(a), all records and written policies required by He-C 4001 shall be maintained on file and shall be made promptly available on the premises of the program for review or be submitted to the department upon request as follows:

- (1) For 2 years from the date the resident is discharged;
- (2) For 2 years from the date of termination for records related to employees; and
- (3) For all other records 2 years from the date the record was created.

(o) The exception to (n) above shall be when program staff shows good cause as to why the requested reports or records are not immediately available. In such case, the provider shall make the records available within 2 business days, or otherwise obtain an extension from the unit. Good cause shall include circumstances beyond the licensee's control or other extenuating circumstances.

(p) When the individual who has been identified and approved by the department as program director leaves the position, the licensee or designee shall:

- (1) Notify the department of the departure of the program director within 10 days;
- (2) Within 10 days of the departure of the director, notify the department of the name of the individual who is temporarily serving as the program director and who meets at least the minimum requirements of a direct care staff; and
- (3) Within 120 days of the date of departure of the program director, notify the department and submit information and documentation required under He-C 4001.02(i) and (j) for the new, qualified program director.

Readopt with amendment He-C 4001.12 through He-C 4001.25, effective 10-23-14 (Document #10705), to read as follows:

He-C 4001.12 Communicable Disease Issues and Health Requirements for Residents and Other Children.

(a) Parental authorization for medical treatment shall be on the premises for each resident upon his or her first day of residence in the program, except for residents in short term placement, and available in accordance with He-C 4001.10(m).

(b) Physical examinations shall be completed for children admitted to the program as residents and children who reside on the premises of the program.

(c) A child health form or an equivalent record of physical examination documenting that a physical examination was completed within the past 12 months shall be on file for each child, as specified in (b) above, within 30 days of the date any child begins residing on the premises of the program.

(d) When a child has not had a physical examination as required in (c) above, the program shall schedule an appointment for a future physical exam within 10 business days of the date the child begins residing at the program.

(e) The child health form or equivalent record of physical examination required under (b) above shall include at least the following:

- (1) The name and date of birth of the child or resident;
- (2) The date of the exam;
- (3) Diagnoses, if any, and a description of any health condition that might affect the child or resident's participation in the program;
- (4) Documentation of immunizations, including dates immunized;
- (5) A history of illness and hospitalizations;
- (6) Reports of any screening or assessment;

- Edit: comma
- (7) Notations about the child or resident's physical, mental and social development;
- (8) A list of current medications, both prescribed and over-the-counter;
- Edit: Delete hyphens.
- (9) Any known allergies;
- (10) Dietary needs, including special diets; and
- (11) The signature of a licensed health care practitioner and the date signed.
- (f) Physical examinations as required under (b) above shall be completed:
- (1) At least every 12 months for each child younger than 6 years of age, with a 60-day grace period to allow the program to obtain the updated physical examination record; and
- (2) At least every 24 months for each child 6 years of age or older, with a 60-day grace period to allow the program to obtain the updated physical examination record.
- (g) Each resident shall have a dental examination based upon a schedule, which shall:
- (1) Take into account the needs of the resident as determined by a licensed dentist; and
- (2) Provide for each resident to have a dental examination at intervals of 6 to 12 months.
- (h) If the program is unsuccessful in obtaining dental examinations in accordance with (g)(2) above, it shall document good faith efforts to schedule an exam.
- (i) A written record documenting the date of the dental exam and treatment needed or provided, shall be maintained on the premises of the program in each resident's permanent record.
- (j) Other medical exams and evaluations shall be completed for each resident as necessary to meet his or her medical needs.
- (k) When a resident is believed to have a reportable communicable disease which was not diagnosed by a physician or other health care provider, the program director or designee shall report the known or suspected communicable disease to the department's bureau of communicable disease control in accordance with RSA 141-C:7 and He-P 301.
- (l) The only exception to (k) above shall be for HIV infection, specifically, the identity of any individual with HIV infection shall be held confidential in accordance with RSA 141-F:8.
- (m) SCPs shall provide services in a residential setting, including access to nursing or medical care, for all children placed in the program diagnosed as having functional limitations and are dependent upon or require medical technology to maintain or improve independence and health.
- (n) SCPs shall provide for the complex health needs of residents whom are medical technology dependent:
- (1) In a manner that affords the least intrusive intervention available to ensure his or her safety, the safety of others, and that promotes healthy growth and development;
- Edit: "(o)"
- (2) By providing services and an environment that meets each resident's needs; and
- (3) By training direct care staff in the use and care of the specific medical technology device or devices that residents in their care are dependent upon. Training must include:
- Edit: "shall"

Edit: space

- a. How to recognize symptoms that may indicate a decline in the resident's health.
- b. Seizures and seizure disorders;
- c. G/J tube use and care;
- d. Tracheostomy care;
- e. C-pap and Bi-pap care; and

Edit: semi-colon

Edit: (p) – (r)

f. Any intervention or procedure that will heighten direct care staff's attention to the health and well-being of residents, such as topics on medical changes that require immediate notification for nursing assessment.

(o) All training and education required in (n) above **must** be performed by the appropriate medical professional with the requisite education and licensure to perform such training or utilize outside resources if an appropriate medical professional is not available.

Edit: "shall"

(p) At the time of admission of a resident with special health care needs or who is medical technology dependent, the licensee shall obtain written and signed orders from a licensed practitioner for medications, treatment, and special diet as applicable.

(q) No resident shall be admitted until the appropriate training in (n) above has been completed.

He-C 4001.13 Personal Hygiene.

- (a) Program staff and residents shall wash their hands as needed.
- (b) Individuals who are participating in food preparation or food service shall:
 - (1) Wash their hands as often as necessary to remove soil and contamination and prevent cross contamination;
 - (2) Cover any cuts or abrasions with a secure bandage; and
 - (3) Not participate in food preparation or food service activities when they have:
 - a. An infection;
 - b. A cut or wound which is running or weeping; or
 - c. A communicable disease that could be spread via food preparation or food service.
- (c) Program staff shall not wash their hands after diapering or toileting in sinks that are used for food preparation or clean up.
- (d) Program staff shall encourage each resident to brush their teeth each morning and before going to bed, and to shower daily.
- (e) Each resident shall have an opportunity to have a shower or bath, with adequate hot water, once each day.
- (f) Program staff shall assist residents who are medical technology dependent, or whose functional needs require direct assistance with daily personal hygiene. Such assistance shall be care planned and provided based on resident need.

He-C 4001.14 Prevention and Management of Injuries, Incidents, Emergencies and Infection Control.

- (a) The program shall develop policies for how direct care staff shall respond to incidents, including but not limited to:
- (1) Addressing threats of self-harm and suicidal behaviors by residents;
 - (2) Medical emergencies;
 - (3) Addressing threatening behaviors such as physical and sexual assaults on other residents or staff;
 - (4) The reporting requirements in He-C 4001.23(g);
 - (5) Screening any child who runs away for indications that the child may be a victim of human trafficking and notifying necessary personnel;
 - (6) Managing the behavior of children, including how and under what circumstances seclusion or restraint is used, pursuant to RSA 126-U:2, ;
 - (7) Accessibility to respite or temporary care arrangements; and
 - (8) How staff will be orientated and trained in accordance with He-C 4001.19(k) and (l) to prepare to work with the population served by the program.
- (b) All program staff responsible for the care and supervision of residents shall be familiar with the program's policies and procedures for managing injuries and emergencies and have access to information necessary to handle emergencies.
- (c) Each building that residents will spend time in shall be equipped with a telephone that is operable and accessible to residents and staff for incoming and outgoing calls.
- (d) The licensee shall maintain an information data sheet in the resident's record and promptly give a copy to emergency medical personnel in the event of an emergency transfer to a medical facility.
- (e) The information data sheet referenced in (d) above shall include:
- (1) Full name and the name the resident prefers, if different;
 - (2) Name, address, and telephone number of the resident's parent(s), guardian, or agent, if any;
 - (3) Diagnosis;
 - (4) Medications, both prescription and over the counter, including last dose taken and when the next dose is due;
 - (5) Allergies;
 - (6) Functional limitations;
 - (7) Date of birth;

(8) Insurance information; and

(9) Any other pertinent information not specified in (1)-(8) above.

(f) At least one residential child care program staff person, who is trained and currently certified in cardiopulmonary resuscitation (CPR) and first aid by the American Red Cross, American Heart Association, Emergency Care and Safety Institute, National Safety Council or other nationally recognized organization or an individual certified by such organization to train, shall be present:

Edit: Delete.

(1) In each building that is used as a residence at all times, when residents are present; and

(2) When residents are participating in any field trips off the premises of the residential child care program.

Edit: comma

(g) The residential child care program director or designee shall obtain and maintain on file, available for review by the department, copies of current CPR and first aid certifications documenting coverage as required in (f) above.

(h) Each building and program vehicle that is used by residents shall be equipped with first aid supplies adequate to meet the needs of the residents.

(i) The first aid supplies shall be stored in a container that is accessible by residential child care program staff but not accessible to residents.

(j) First aid supplies adequate to meet the needs of the residents shall be available during all field trips.

(k) When the first aid treatment provided for minor scrapes or bruises is not effective or when a resident's injury is more than a minor scrape or bruise, residential child care program staff shall:

(1) If the injuries appear to be life threatening or appear to be severe, call emergency medical services for transport to a medical facility by ambulance;

(2) For all other injuries, take the injured resident to a licensed health care practitioner for medical evaluation and treatment;

(3) As soon as possible after the injury occurs, notify the person or agency responsible for the resident's placement and the parents of the injured resident whenever possible; and

(4) Complete a written incident report as specified in He-C 4001.23 (a) and (b) within 24 hours of the incident.

(l) The program director or designee shall notify the unit, the parent, and the person or agency responsible for the resident's placement within 24 hours of the death of any resident.

(m) The program director or designee shall provide a written report, detailing the circumstances of the death, to the unit and the person or agency responsible for the resident's placement, within 72 hours of the death of any resident.

(n) In (l) or (m) above, in cases involving serious injury or death to a resident subject to restraint or seclusion in a program, the program shall, in accordance with and addition to the provisions of RSA 126-U:10, notify the commissioner, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities. Such notice shall include the notification required in RSA 126-U:7, II.

Unclear: In other rules, such as He-M 204, the rules specifically refer to the Disability Rights Center.

(o) The program director or designee shall conduct fire drills once each month in each building that is used as residential child care space.

(p) Monthly fire drills required in (o) above shall be held at varying times, including night time hours.

(q) Programs shall activate the actual fire alarm system for the building for at least 2 of the monthly fire drills required each year.

(r) Programs shall ensure that all residents and program staff evacuate the building during each fire drill including, if applicable, descent using the route designated on the posted fire evacuation plan.

(s) The staff person conducting the fire drill shall complete a written record of each fire drill that shall:

(1) Be maintained on file at the program for one year; and

(2) Be available for review by the fire inspector and the department.

(t) The written record of fire drills required under (s) above shall include at least the following:

(1) The date and time the drill was conducted, and whether the actual fire alarm system was activated;

(2) Exits used;

(3) Number of residents evacuated and total number of people in the building at the time of the drill;

(4) Name of the person conducting drill;

(5) Time taken to evacuate the building;

(6) Any problems encountered; and

(7) A plan for correcting those problems.

(u) The program director or designee shall conduct a fire drill in the presence of a representative of the department or the local fire department upon request by either of those entities.

(v) If providing withdrawal management, any new SCPs shall comply with the appropriate chapter of NFPA 101 as published by the National Fire Protection Association and as amended by the state board of fire control and ratified by the general court pursuant to RSA 152:5, consistent with the level of needs of residents being served.

(w) All programs shall have:

<p>Clarity/Legis. Intent. Citation is incorrect. Also, see comment to He-C 4001.02(e)(2)b.2 on the State Fire Code, which encompasses NFPA 101.</p>
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(1) Smoke detectors as approved by the state fire marshal' in accordance with NFPA 101 the Life Safety Code and NFPA 1 the Fire Prevention code consistent with the appropriate level of care being provided by the program;

(2) At least one UL Listed, ABC type portable fire extinguisher, with a minimum rating of 2A-10BC installed on every level of the building with a maximum travel distance to each extinguisher not to exceed 50 feet and maintained as follows:

a. Fire extinguishers shall be inspected either manually or by means of an electronic monitoring device or system at least once per calendar month, at intervals not exceeding 31 days;

- b. Records for manual inspection, or electronic monitoring shall be kept to demonstrate that at least 12 monthly inspections have been performed;
- c. Annual maintenance shall be performed on each extinguisher by trained personnel, and a tag or label shall be securely attached that indicates that maintenance was performed; and
- d. The components of the electronic monitoring device or system in a. above, if used, shall be tested and maintained annually in accordance with the manufacturers listed maintenance manual; and

Unclear: Incorrect cite.

(3) A carbon monoxide monitor on every level of the program, in accordance with Saf-C 6010.

(x) An emergency and fire safety program shall be developed and implemented to provide for the safety of residents and personnel.

(y) In addition to the policies required in (a) above, the program shall develop and implement an emergency operations plan (EOP), which shall:

(1) Be based on the incident command system and coordinated with the emergency response agencies in the community in which the residential program is located;

(2) Contain guidelines for personnel responsible for critical tasks, including, but not limited to the role of center incident commander, child care, medical treatment, and parental notification; and

(3) Include response actions for natural, human-caused or technological incidences including, but not limited to:

- a. Evacuation, both within building and off-site, relocation;
- b. Secure campus;
- c. Drop, cover and hold;
- d. Lockdown;
- e. Reverse evacuation;
- f. Shelter-in-place; and
- g. Bomb threat, scan;

Edit: comma

Edit: "and"

(z) Programs shall develop a continuity of operations plan (COOP) to ensure that essential functions continue to be performed during, or resumed rapidly after, a disruption of normal activities.

(aa) All response actions in (y)(3) above shall include accommodations for children with chronic medical conditions, and children with disabilities or with access and functional needs.

(ab) Programs shall practice no less than 2 components of their EOP as described in (y) above with all staff and children at least twice per year.

(ac) All staff shall review the program's EOP in accordance with the following:

(1) For currently employed staff, within the first 30 days of the development of the EOP pursuant to (y) above; or

(2) For newly hired staff, within the first 30 days of employment.

(ad) In each building of the residential program, the written policies and procedures in (a) above and the EOP in (y) above shall be in an area easily accessible and known to residential staff.

(ae) Programs operating an SCP shall appoint an individual who will oversee the development and implementation of an infection control program that educates and provides procedures for staff for the prevention, control, and investigation of infectious and communicable diseases.

(af) The infection control program shall include written procedures for:

- (1) Proper hand washing techniques;
- (2) The utilization of universal precautions;
- (3) The management of residents with infectious or contagious diseases or illnesses;
- (4) The handling, storage, transportation and disposal of those items identified as infectious waste in Env-Sw 904; and
- (5) The reporting of infectious and communicable diseases as required by He-P 301.

Edit: comma

(ag) The infection control education program shall address at a minimum the:

- (1) Causes of infection;
- (2) Effects of infections;
- (3) Transmission of infections; and
- (4) Prevention and containment of infections.

He-C 4001.15 Medication Services.

(a) The licensee shall develop and implement written policies and procedures regarding administration, documentation, including a system for maintaining counts of controlled drugs, protocols for medication occurrences, and control and safety of medication that are consistent with the requirements of this section.

(b) Administration of medications to residents shall be performed by authorized staff, registered nurse (RN), licensed practical nurse (LPN) or licensed health care practitioners, accurately and in accordance with the resident's treatment plan and the licensee's policies.

(c) Authorized staff shall know and understand the program's written policies and procedures regarding the administration, control and safety of medication.

(d) All residents shall be initially assessed to determine the level of support needed specific to medication administration.

Edit: comma

(e) The assessment pursuant to (d) above shall include the resident's:

- (1) Medication order(s) and medications prescribed;
- (2) Health status and health history; and

(3) Ability to manage his or her medication, consistent with the resident's treatment plan.

(f) Program staff shall obtain, or document their efforts to obtain, oral or written consent from the parent prior to administering any new or changed prescription medications.

(g) When the resident's parent(s) is responsible for supplying the program with the resident's medication, program staff shall contact the parent 2 weeks prior to the end of the supply of medication.

(h) When the responsibility of providing care to a resident is transferred to persons outside the program, for example for a home visit, and the resident is taking prescription medication:

(1) The pharmacy container(s) shall be given to the person responsible for the resident;

(2) The program shall document the medication name, strength, prescribed dose, route of administration, and quantity of each medication provided to the persons outside the program, upon the resident's transfer of care; and

(3) Upon the resident's return to the program, the program shall document the return of any medications including medication name, strength, prescribed dose, route of administration, and quantity of each medication with a description of why the medication was not given as the medication order stated.

(i) Authorized staff shall administer only those prescription medications for which there is a medication order.

(j) Authorized staff shall administer medications only to the residents about whom they have current knowledge relative to their medication regimes.

(k) Authorized staff shall maintain a copy of each resident's medication orders in the resident's record.

(l) Medication orders shall be valid for no more than one year unless otherwise specified by the licensed health care practitioner.

(m) Each medication order shall legibly display the following information:

(1) The resident's name;

(2) The medication name, strength, the prescribed dose and route of administration;

(3) The frequency of administration;

Edit: comma

(4) The indications for usage of all medications to be used PRN; and

(5) The dated signature of the licensed health care practitioner.

(n) Written orders from a licensed health care practitioner regarding any prescription medication that is to be administered PRN shall include:

(1) The indications and any special precautions or limitations regarding administration of the medication;

(2) The maximum dosage allowed in a 24-hour period; and

(3) The dated signature of the licensed health care practitioner.

(o) In addition to (n) above, authorized staff shall administer PRN medication in accordance with:

- (1) A medication order; and
- (2) A PRN protocol approved by the licensed health care practitioner that includes the specific condition(s) for which the medication is given.

(p) Prior to the administration of medication, authorized staff shall obtain information specific to each medication, including, at a minimum:

- (1) The purpose and effect(s) of the medication;
- (2) Response time of the medication;
- (3) Possible side effects, adverse reactions, and symptoms of overdose;
- (4) Possible medication interactions; and
- (5) Special storage or administration procedures.

(q) In the event of a medication occurrence, the authorized staff responsible for the administration of the medication shall forward written notification to the program director by the close of the next business day.

(r) When any medication that is administered by program staff results in serious adverse reactions including, but not limited to, impaired speech, mobility or breathing, semi-consciousness, or unconsciousness, program staff shall:

- (1) Immediately call 911 or notify a licensed health care practitioner for instructions regarding the need for emergency or other medical treatment;
- (2) Immediately comply with the instructions provided by the licensed health care practitioner;
- (3) Remain with the resident until he or she is fully alert and oriented and has recovered all physical capabilities that had been impaired by the medication, or until responsibility for the resident's care is transferred to a licensed health care practitioner in a medical facility; and
- (4) Notify or document efforts to notify the parents within 24 hours.

(s) Prior to administering medication to any resident, program staff shall complete and document training on medication safety and administration, as specified in (t) below.

(t) Training in medication safety and administration, as required in (s) above, shall:

(1) Be delivered by a physician, APRN, RN, or LPN practicing under the direction of an APRN, RN or physician, or by another qualified individual;

Edit: comma

(2) Be provided in person, via distance learning, a video presentation, or web-based; and

(3) Address the following:

a. The safe storage and administration of medication, including but not limited to:

1. Administration of the correct medication;
2. Administration of the correct dosage of the medication;
3. Administration of the medication to the correct resident;

4. Administration of the medication to the resident at the correct times and frequency;
5. Administration of the medication to the resident by the correct method of administration;
6. Infection control and aseptic procedures related to administration of medication; and
7. Resident's rights regarding refusing medications;

- b. Possible side effects and adverse reactions to the medications to be administered and required reporting regarding those issues;
- c. Proper storage, disposal, security, error control and documentation as related to the medications to be administered;
- d. Any other unusual occurrence related to the safe storage or administration of medication and reporting requirements regarding those issues;
- e. Conditions or situations requiring emergency medical intervention; and
- f. Methods of administration including, but not limited to oral, injection, topical application or inhalation.

Edit: comma

(u) In addition to (t) above, authorized staff shall complete 2 hours of training annually on medication safety and administration.

(v) Documentation of training in medication safety and administration shall be maintained on file at the child care program available for review by the department.

(w) For each resident, program staff shall maintain medication information on file and available for review by the department, which includes, at a minimum:

- (1) A written medication order, as specified in (m) above, including special considerations for administration for each prescription medication being taken by a resident;
- (2) Written parental authorization to administer medication, if applicable;
- (3) The name and contact information of the parent, if applicable; and
- (4) Allergies, if applicable.

(x) In addition to (w) above, program staff shall maintain a daily medication log for each dose of medication administered to each resident.

(y) The medication log required in (x) above shall:

- (1) Be maintained on file in the program, available for review by the department;
- (2) Be completed by the authorized staff who administered the medication immediately after the medication is administered; and
- (3) For each medication prescribed, include at a minimum:
 - a. The name of the resident;
 - b. The date and time the medication was taken;

Edit: To avoid language of a separate paragraph, say "including."

- c. A notation of any medication occurrence or the reason why any medication was not taken as ordered or approved;
- d. The dated signature of the authorized staff who administered the medication to the resident; and
- e. For administration of a PRN, documentation shall also include the reason for administration.

(z) The licensee shall require that all telephone orders from a licensed health care practitioner or their agent, for medications, treatments and diets are documented in writing, including facsimiles, by the licensed health care practitioner within 24 hours.

Edit: comma

(aa) In addition to (z) above, authorized staff shall record any changes regarding prescription medications in the resident's medication log.

(ab) All physician medication samples shall legibly display the information described in (m)(1)–(5) above.

(ac) No person other than a licensed health care practitioner shall make changes to the written order of a licensed health care practitioner regarding prescribed medication.

(ad) All medication maintained by the program shall be stored as follows:

(1) Kept in a storage area that is:

- a. Locked and accessible only to authorized personnel;
- b. Organized to allow correct identification of each resident's medication(s);
- c. Illuminated in a manner sufficient to allow reading of all medication labels; and
- d. Equipped to maintain medication at the proper temperature;

(2) Schedule II controlled substances, as defined by RSA 318-B:1-b, shall be kept in a separately locked compartment within the locked medication storage area and accessible only to authorized personnel; and

(3) Topical liquids, ointments, patches, creams, and powder forms of products shall be stored in a manner such that cross-contamination with oral, optic, ophthalmic, and parenteral products shall not occur.

(ae) All medication shall be accompanied by:

Edit: comma

- (1) The physician's written order, which may be the prescription label; and
- (2) The manufacturer's written instructions for dosage.

(af) Medications such as insulin, inhalers and epi pens shall be permitted to be in the possession of a resident in accordance with the resident's ability, as specified in the resident's treatment plan.

(ag) All medications belonging to staff shall be stored in a locked area, separate from residents' medications or otherwise inaccessible to residents.

(ah) The program director or designee may elect to have a supply of non-prescription medication available, including but not limited to acetaminophen, ibuprofen, aspirin, cold medicines, or antacids that may

be administered to residents for minor illnesses, provided those medications are stored and administered in accordance with the requirements in this section.

(ai) All medication shall be kept in the original containers or pharmacy packaging and properly closed after each use unless otherwise allowed by law.

(aj) Any contaminated, expired, or discontinued medication, whether prescription or over the counter, shall be destroyed within 7 days of identification as contaminated, expired or discontinued.

(ak) Destruction of prescription drugs under (aj) above shall:

Edit: comma

(1) Be accomplished by an authorized staff and witnessed by one staff; and

(2) Be documented in the resident's medication record, including the legible, dated signature of the staff person who disposed of the drugs and the staff person who witnessed the disposal.

(al) All medication shall be destroyed as per **WD-DWGB-22-27** dated 2009.

(am) Programs providing SUD services shall have a clearly identified policy for storage and administration of naloxone that includes the following:

Legis. Intent: See RSA 541-A:12, III-VII. This incorporated DES document needs to have an Inc. by Ref. Statement, be included in Appendix A, and with a reference to Appendix A in the rule.

(1) The process for regularly reviewing and updating the standing order for the naloxone kits on the premises;

(2) The process for ensuring regular review of naloxone kits for expiration;

(3) If naloxone is administered, the policy shall include a statement that 911 shall be called immediately; and

(4) If naloxone is not administered but an overdose is suspected, the policy shall include a statement that 911 shall be called immediately.

(an) Medication administered by individuals authorized by law to administer medications shall be:

(1) Prepared immediately prior to administration; and

(2) Prepared, identified, and administered by the same person in compliance with RSA 318-B and RSA 326-B.

(ao) Personnel shall remain with the resident until the youth has taken the medication.

(ap) If a nurse delegates the task of medication administration to an individual not licensed to administer medications, the nurse shall follow the requirements of RSA 326-B.

(aq) Programs providing SUD services shall have a written policy establishing procedures for the prevention, detection, and resolution of controlled substance misuse, and diversion, which shall apply to all personnel, and which shall be the responsibility of a designated employee or interdisciplinary team.

(ar) The policy in (aq) above shall include:

(1) Education;

(2) Procedures for monitoring the distribution and storage of controlled substances;

(3) Voluntary self-referral by employees who are misusing substances;

- (4) Co-worker reporting procedures;
- (5) Drug testing procedures to include at a minimum, testing where reasonable suspicion exists;
- (6) Employee assistance procedures;
- (7) Confidentiality;
- (8) Investigation, reporting, and resolution of controlled drug misuse or diversion; and
- (9) The consequences for violation of the controlled substance misuse, and diversion prevention policy.

He-C 4001.16 Residential Child Care Space.

(a) In all programs, space that is designated, inspected, and approved as residential child care space shall not be used for any purposes or activities that could jeopardize the health or safety of residents or otherwise negatively impact the residential child care program.

(b) Residential child care programs shall provide:

Edit: comma

- (1) A living room or community space with comfortable furnishings, available and accessible to residents for regular and informal use for general relaxation and entertainment;
- (2) Bedrooms that are separated by gender and that have:
 - a. A minimum of 50 square feet of floor space per occupant;
 - b. Ceilings that are at least 7 feet high at the highest peak;
 - c. An outside window; and
 - d. An operable door;
- (3) An area that is suitable and available for private discussions and counseling sessions;
- (4) Sturdy, comfortable furniture and furnishings, that are clean and in good repair;
- (5) Bathroom facilities that provide residents with age appropriate privacy while changing clothes, showering, attending to personal hygiene, and using the toilet;
- (6) When available on site, outdoor space that is maintained in a neat, safe, clean condition and is available to residents for active recreation; and
- (7) Screens for all operable windows in the facility.

(c) If seclusion is used, then rooms used for seclusion shall be in compliance with the provisions of RSA 126-U:5-b.

(d) Programs shall have a communication system in place so that residents and staff can effectively contact personnel when they need assistance with care or in an emergency.

(e) Programs shall assure that:

- (1) Damage to the residence, such as holes in walls and doors, is repaired within 7 days, or as soon as possible after the damage has occurred; and

(2) Any hazardous condition in the licensed premises, including but not limited to those identified in He-C 4001.17(a), is immediately addressed, and that residents do not have access to any hazardous conditions or materials pending repair or replacement.

He-C 4001.17 Health and Safety in the Residential Child Care Environment.

(a) Program staff shall maintain the residential child care environment free of conditions hazardous to residents, including but not limited to, the following:

- (1) Electrical hazards;
- (2) Guns, or live or spent ammunition;
- (3) Holes in flooring, loose floor tiles or loose throw rugs, which present a slipping or tripping hazard;
- (4) Loose and flaking paint which is accessible to residents;
- (5) Unclean conditions, which demonstrate a lack of regular cleaning;
- (6) Inadequate protections against insects and rodents; and
- (7) Garbage and rubbish stored in an unsanitary manner.

Unclear whether this date is intended. The CFRs were amended in 2015 and 2016.

(b) When interior or exterior surfaces of a building built prior to 1978 are in deteriorating condition, including flaking, chipping and peeling paint, or are subject to renovations or construction, a U.S. Environmental Protection Agency certified Renovation, Repair, and Painting (RRP) contractor shall be utilized to make the deteriorated surfaces intact, in accordance with 40 CFR1.745.90(a) and (b)(2011) and He-P 1600.

(c) When there is information or evidence indicating that the building might contain asbestos hazards, the applicant, licensee, or designee shall submit evidence that the building has been inspected by a licensed asbestos inspector and is free of asbestos hazards or otherwise treated or contained in a manner approved by a licensed asbestos inspector.

(d) Program staff shall clearly label and store all toxic materials, including, but not limited to, cleaners, household chemicals and paint, separate from food items, in cabinets which are locked or otherwise inaccessible to residents.

Edit: "shall be"

(e) Notwithstanding (d) above, at the discretion of the program director, residents may be allowed to use household cleaning products to complete a specific task, provided the resident completing the task is under the supervision of program staff while the cleaning chemicals are accessible, and the cleaning products are not accessible to other residents not involved in the cleaning task.

Edit: "shall not be"

(f) Program staff shall maintain on file at the residence documentation of current vaccinations as required by law for all pets and animals that are present on the premises of the program.

(g) Pets and animals that have been determined by the department to pose a health or safety risk to children shall not be permitted on the premises of the program, including, but not limited to, the following:

- (1) Bats;
- (2) Turtles;
- (3) Tortoises;

- (4) Snakes;
- (5) Iguanas;
- (6) Other lizards or reptiles;
- (7) Hedgehogs;
- (8) Parakeets; and
- (9) Parrots and parrot-like birds.

(h) All enclosed living areas used by residents shall:

(1) Be ventilated by means of a mechanical ventilation system or one or more screened windows that can be opened, and will not pose a hazard to residents; and

(2) From September 1 through May 31, have a safe, functioning heating system, which is cleaned, serviced, and maintained at least once annually and which ensures that whenever residents are present, or expected to arrive within one hour, the temperature is maintained at:

Edit: comma

a. Not less than 65 degrees Fahrenheit during waking hours, except for areas being used for active physical exercise or recreation; and

b. Not less than 55 degrees Fahrenheit during sleeping hours.

(i) Program staff, child care interns, and volunteers shall not smoke or use tobacco products while they are responsible for the care of residents or within sight of residents, nor allow residents to smoke or use tobacco, have access to tobacco products, or be exposed to second hand smoke.

(j) All living space and recreation areas used by residents shall be equipped with operable lighting sufficient to allow individuals to enter, exit and move about the premises of the program safely.

(k) All toys, equipment and learning materials shall be:

(1) In good repair;

(2) Safe;

(3) Free of lead paint or other poisonous material; and

Edit: "buildup"

(4) Cleaned as often as needed to keep them free of a build up of dirt.

(l) Licensees shall provide sufficient sturdy tables and chairs to ensure each resident's comfort for meals, snacks and for work or play at tables.

(m) Licensees shall provide each resident with a bed equipped with:

Edit: comma

(1) A pillow and a firm mattress that is:

a. Clean;

b. In good repair;

c. Free from rips or holes in the fabric covering that would allow residents access to the interior components of the mattress;

- d. Cleaned and sprayed with a disinfecting spray before being used for a new resident; and
- e. Replaced or sanitized promptly if soiled by urine, feces, blood or vomit; and

(2) Adequate bedding to insure his or her comfort that is cleaned and maintained as follows:

- a. Sheets and pillow cases shall be cleaned at least once each week and more frequently if soiled; and
- b. Blankets, comforters, bedspreads and mattress covers shall be cleaned at least once each month and more frequently if soiled.

Edit: comma

(n) Programs shall provide separate sleeping and bathroom facilities for staff and family members of staff who reside in the program.

(o) Program staff shall maintain the outside play areas free of hazards.

(p) During activities conducted in the water, including wading, swimming and boating, the following shall apply:

(1) All activities shall be supervised in accordance with the following:

- a. Program staff shall provide close supervision to residents at all times, to include a ratio of one staff to no more than 4 residents when no lifeguard is present;
- b. At least one staff person who is currently certified in CPR and first aid shall be present with the residents at all times;
- c. At least one staff person who has completed training in water safety shall be present with the residents at all times;
- d. A rescue buoy, ring buoy, or water rescue throw bag shall be brought to or present at all swimming and boating activities where there is no lifeguard present; and
- e. Notwithstanding a. through d. above, a program may allow a resident to be at a water activity independently, if the program director provides a written and dated authorization, after assessing the following:

- 1. A resident's swimming ability, such as whether he or she has completed a Red Cross or other recognized swimming program;
- 2. A resident's ability to be independent;
- 3. Under what circumstances the resident may be at a water activity independently; and
- 4. Whether or not a lifeguard must be on duty or a parent or other adult must be present at the water activity; and

(2) All pools used as part of the residential child care operation shall be maintained in accordance with the printed instructions of the manufacturer or installer regarding cleaning, filtration and chemical treatment, and the following:

- a. Swimming pools shall be secured in a manner that is childproof and lockable; and

Edit: comma

b. Pool gates, fences, or other barriers as required in a. above shall be locked at all times, except when the residents are involved in an allowable water activity in the pool.

(q) Program staff shall comply with the following food service requirements:

(1) All foods that will be served to residents shall be:

- a. Free from spoilage, filth, or other contamination;
- b. Stored in a clean dry location;
- c. Protected from sources of contamination;
- d. Stored in containers at least 6 inches above the floor;
- e. Stored separate from non-food items that could contaminate food or be mistaken for food;
- f. Stored in the original containers or in labeled containers designed for food storage; and
- g. Stored, handled and prepared in a manner that protects against cross contamination between uncooked meat, poultry or fish and other food items;

Edit: comma

(2) Canned goods that are dented, bulging or rusted shall not be served to residents;

Edit: comma

(3) All perishable foods which are to be served to residents shall be stored at temperatures of 41 degrees Fahrenheit or below in a refrigerator and at 0 degrees Fahrenheit or below in a freezer;

(4) Refrigerators and freezers used to store foods that will be served to residents shall be clean;

(5) Refrigerators and freezers used to store foods that will be served to residents shall be equipped with non-mercury, food-grade thermometers; and

(6) Food contact surfaces shall be easily cleanable, smooth, free of cracks, breaks, and open seams or similar difficult to clean imperfections and kept clean.

(r) Toys or other items which are routinely mouthed by residents shall be cleaned and sanitized after each use by a resident, and at the end of each day.

(s) Residents who have developmental delays and are likely to put objects in their mouths, shall be closely supervised when they have access to the items noted in (t)(1)c. and (11) below.

(t) Program staff shall comply with the following child age related environmental health and safety requirements:

(1) Residents younger than 6 years of age shall not have access to the following:

- a. Cords or strings long enough to encircle a resident's neck, including but not limited to pull toys, telephone cords and window blind cords;
- b. Balusters which are spaced more than 3 1/2 inches apart on handrails and guardrails on play structures, lofts, stairs, steps, decks, porches, balconies or other barriers;
- c. Sharp knives and sharp objects or objects with sharp edges, except that, at the discretion of program staff and under close supervision, program staff may allow use of scissors or knives for specific cooking projects, craft projects or meal times;

Edit: comma

- d. Unstable or easily tipped heavy furnishings or other heavy items which, if not secured to the wall or floor or both, could easily fall on residents and would be likely to cause injury; and
- e. Toy boxes and any other chest type storage facilities that have a lid that does not have a safety lid support;

(2) Play areas accessible to residents younger than 6 years of age shall be enclosed by a fence when the department determines that the play area is unsafe because it is located on a roof, or adjacent to any of the following:

- a. A street or road; or
- b. Any dangerous areas, any swimming pool, or any body of water;

(3) All fencing required under (2) above shall:

- a. Be designed to restrain residents from climbing out of, over, under or through the fence;
- b. Have a child proof self-latching device on any gates; and
- c. Be maintained in good repair, free of damage or wear that could expose residents to hazards;

(4) When accessible to residents younger than 6 years of age, ground area under and extending at least 39 inches beyond the external limits of outdoor play equipment which would allow a resident to fall from a height of more than 29 inches shall be constructed and maintained at all times with an energy absorptive surface, including but not limited to sand, bark mulch, pea stone, soft wood chips or rubber mats manufactured for use as gym mats;

(5) The energy absorptive material required in (4) above shall be:

- a. Maintained at a depth of at least 8 inches; and
- b. Checked and raked regularly to remove any foreign matter, correct compaction and increase absorption;

(6) Adult toilets and hand washing sinks used by residents younger than 6 years of age shall be equipped with footstools or platforms;

(7) Foot stools or platforms required in (6) above shall:

- a. Have a non-porous finish that is easily cleanable; and
- b. Be designed to prevent tipping;

(8) The fall zone under and around all indoor swings, slides and climbing equipment from which a child could fall from a height of more than 29 inches shall be covered with mats designed for gymnastics, if they are accessible to or will be used by residents younger than 6 years of age;

(9) Children younger than 3 years of age shall not have access to stairs or steps that are not equipped with safety gates;

(10) Baby walkers with wheels shall be prohibited in all programs;

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- (11) Residents younger than 4 years of age shall not have access to toys, toy parts and other materials which pose a choking risk or are small enough to be swallowed, such as coins and balloons;
- (12) There shall be an individual crib or playpen for each resident 12 months of age and younger; and
- (13) Cribs and playpens required under (12) above shall:
- a. Not be stacked;
 - b. Be free of cracked or peeling paint, splinters, and rough edges;
 - c. Have no more than 2 3/8 inches between slats;
 - d. Have no missing, loose, broken, or improperly installed parts, screws, brackets, baseboards or other loose hardware or damaged parts on the crib or mattress supports;
 - e. Not have corner posts that extend more than one sixteenth of an inch above the end panels;
 - f. Not have cutouts in the headboard or footboard;
 - g. Not have holes or tears in the mesh walls or in the material that connects the walls to the bottom of the crib or play pen; and
 - h. Have mattresses which:
 1. Are in good repair, free of rips or tears; and
 2. Fit the crib or playpen so that space between the mattress and the crib or playpen does not create a suffocation hazard.

He-C 4001.18 Water Supply, Septic Systems, Bathroom Facilities.

(a) The licensee shall supply a safe supply of water under pressure, which is available for drinking and household use in accordance with the following:

- (1) Hot water under pressure, which measures at least 100 degrees Fahrenheit, shall be available at all sinks, showers and bathtubs located in living space that is used by residents during operating hours;
- (2) Hot water at taps that are accessible to residents shall be regulated to maintain a temperature at the tap of not higher than 120 degrees Fahrenheit;
- (3) In accordance with Env-Dw 501.04(c), a program that has a public water system as defined in RSA 485:1-a, XV and subject to regulation by the department of environmental services, shall have on file a written document which lists the United States Environmental Protection Agency identification number of the system, assigned by the department of environmental services;
- (4) The written documentation required in (3) above available shall be available for review by the health officer and the department;
- (5) Programs that have their own independent water supply and are not considered to be public water systems as defined in RSA 485:1-a, XV, shall test their water supply in accordance with the following:

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- a. Water testing shall be performed by a laboratory accredited under the environmental laboratory accreditation program in accordance with Env-C 300;
- b. For new applicants, not more than 90 days prior to the date the application is submitted to the department, water testing shall be conducted for arsenic, bacteria, nitrate, nitrite, lead, both stagnant and flushed, copper, both stagnant and flushed, fluoride, and uranium and results provided to the department with the application; and
- c. Ongoing water testing shall be conducted as follows and results maintained on file at the program, available for review by the health officer and the department:
 1. Once every 3 months for bacteria;
 2. Annually for arsenic, nitrate, and nitrite; and
 3. At least once every 3 years for stagnant lead, stagnant copper, fluoride, and uranium;

(6) The results of water tests required by (a)(5)b. and c. above, and results of any other water tests shall be in compliance with the maximum contaminant levels established in Env-Dw 700 for bacteria, nitrates, nitrites, arsenic, and fluoride, and shall not exceed the action levels established in Env-Dw 714 for lead and copper;

(7) Any program whose water test result has exceeded maximum contaminant levels or action levels shall:

- a. Immediately contact the department to report that finding, and provide the department with a plan for how it will ensure that children will not be at risk from exposure to the unsafe water; and
- b. Within 30 days of the date the program learns that they have failed a water test submit to the department an acceptable corrective action plan which details what action will be taken to correct the unsafe condition of the water and a date by which that action will be complete, unless the program requests, either verbally or in writing, and the department agrees to extend that deadline based on the following criteria:

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1. The program demonstrates that it has made a good faith effort to develop and submit the corrective action plan within the 30 day period but has been unable to do so; and
2. The department determines that the health, safety or well-being of children will not be jeopardized as a result of granting the extension; and

(8) When a program fails to submit a written proposed corrective action plan within 30 days of receiving the unacceptable test result under (a)(5)b. above, the department shall initiate action to suspend the license or permit in accordance with He-C 4001.10(i), until such time as laboratory results meeting those requirements are received by the department.

(b) Programs shall ensure that there are functional sewage disposal facilities designed to accommodate the license capacity of the program, in accordance with the following:

- (1) There shall be no visible sewage on the grounds;
- (2) There shall be flush toilets in working order connected to a sewage disposal system; and
- (3) Any program whose septic system is showing signs of failure, shall:

- a. Immediately make arrangements with a contractor licensed to evaluate and repair or replace septic systems to:
 1. Make temporary repairs to the septic system to correct the problem so that the program may continue to operate; or
 2. Make permanent repairs to the septic system or replace the septic system;
- b. Immediately contact the local health officer to inform him or her of the problem;
- c. Immediately contact the department to verbally report the problem, and give the department a plan for how it will immediately provide that:
 1. All required bathroom units function properly; and
 2. Residents will not be exposed to any risks from the failed septic system;
- d. Within 10 days of the date that program staff first notice signs indicating that the septic system is in failure, submit to the department a written plan, which includes:
 1. What action has been taken to correct the failed septic system;
 2. The date by which that action will be completed; and
 3. An explanation of how the program will ensure that the requirements in (b) (3) c. 1. and 2. above will continue to be met until repair or replacements are completed; and
- e. Request an extension to d. above which the department shall grant if additional time is necessary to develop a written plan and the safety and well-being of the residents is maintained.

(c) Programs shall ensure that in each building in which residents reside, for every 4 residents there shall be one bathroom unit that is accessible to residents and equipped with:

- (1) An operable door; and
- (2) A properly functioning sink, toilet and shower or tub.

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(d) Programs shall maintain bathroom facilities in accordance with the following:

- (1) At least once each day and whenever visibly soiled, sinks, toilets, commodes, foot stools, potty chairs and adapters shall be cleaned to remove visible dirt and sanitized;
- (2) Toilet paper, individual cloth or paper towels and individual bar or liquid soap shall be available and accessible to residents and staff;
- (3) Bathrooms shall have a means of outside ventilation; and
- (4) Bathroom floors and other surfaces shall be cleaned at least weekly, and more often when obviously soiled.

(e) In addition to the requirements for toilets set forth in (c) above, programs that serve residents younger than 3 years of age shall:

- (1) Provide additional child size toilets, adult toilets with adapters, or potty chairs to meet the needs of such residents;
 - (2) Place potty chairs within easy access to a toilet and sink to allow program staff to proceed to the toilet to empty the potty chair and proceed to the hand washing sink after toileting without having to open doors or gates, or have physical contact with other residents;
 - (3) Not place potty chairs or commodes in food preparation areas or food service areas; and
 - (4) Empty and sanitize each potty-chair and commode receptacle after each use.
- (f) Programs serving diapered residents and residents who are not toilet trained shall have a designated diaper changing area that:
- (1) Is not located in kitchens, food preparation or food service areas or on surfaces where food is prepared or served;
 - (2) Is located adjacent to or in close proximity to a hand washing sink to allow access for hand washing without having to open doors or have physical contact with other residents;
 - (3) Has a non-porous, washable surface, which shall be sanitized after each diaper change and used exclusively for diaper changing;
 - (4) Contains a foot-activated receptacle for disposal of soiled disposable diapers and cleansing articles; and
 - (5) Is equipped with a sink used for adult and resident hand washing before or after diaper changing or toileting.

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He-C 4001.19 Requirements for Program Staff.

- (a) Program staff shall:
 - (1) Relate with residents in a professional, respectful manner; and
 - (2) Have the ability to identify the needs and problems of the children and possess skill in planning and implementing services of the program.
- (b) The program director or designee shall, for each staff person who is responsible for the care, supervision or treatment of residents, have on file available for review by the department, documentation of job qualifications such as:
 - (1) All required education, such as a diploma, transcripts, certificates or degrees; and
 - (2) All required training and experience, as set forth on an application form or resume.
- (c) For the purposes of this section, the field of human services shall include residential care, education, social work, mental health, law enforcement, psychology, sociology, pastoral counseling, theology, juvenile justice, medical services, corrections, substance abuse, social services, recreation or a related field.
- (d) The department shall accept the following education and training for program staff:
 - (1) Credit courses in human services, offered by a regionally accredited college or university, toward meeting pre-service and in-service training requirements;

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(2) Non-credit courses in human services, which are offered by a regionally accredited college or university, toward meeting pre-service and in-service training requirements at a ratio of 12 contact hours equal one credit; and

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(3) Conference sessions, workshops, non-credit correspondence courses or other non-credit distance learning courses related to human services, that are open to individuals working in the residential child care field or to the public or both, and are presented by an instructor who has at least a bachelor's degree in human services or the subject area in which he or she is teaching, at a ratio of 12 contact hours equals one credit.

(e) The program director shall meet at least one of the following pre-service training and education options:

(1) A master's degree in the field of human services, business administration or public administration, awarded by a regionally accredited college or university, plus 2 years of experiences as a professional in human services, which included administrative responsibilities; or

(2) A bachelor's degree with a minimum of 12 credits in the field of human services, business administration or public administration, awarded by a regionally accredited college or university, plus 3 years of experience as a professional in human services, which included administrative responsibilities.

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(f) Direct care staff shall be at least 21 years of age, have a high school diploma, high school equivalency certificate, or general equivalency diploma, and meet one of the following pre-service training and education requirements:

(1) An associate's or higher degree with a minimum of 12 credits in the field of human services, or other field related to residential care, awarded by a regionally accredited college or university;

(2) The equivalent of 2 years of full time experience working with children, either as a paid employee or volunteer;

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(3) Any combination of college credits in human services and experience with children that total 2 years, as follows:

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a. Two years of full time college equals 60 credits;

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b. Two years of full time employment equals 3000 hours; and

c. One credit equals 50 hours of experience; or

(4) Documentation of 7 years of parenting experience.

(g) When an applicant for a direct care staff member does not meet one of the provisions in (f) above:

(1) An agreement shall be on file, signed and dated by the individual and the program director or designee, which includes a written plan for:

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a. Attaining 12 credits in human services within 2 years from the date that the individual begins working as a direct care staff, with documentation on file of the completion of 3 credits every 6 months, beginning on the date of hire;

b. How the program will supervise the individual while they are working on acquiring the required 12 credits; and

c. Maintaining current documentation of earned credits on file in the individual's personnel file; and

(2) No more than 30% of staff shall be hired under the provisions of (g)(1)a. above.

(h) A child care assistant, intern, or volunteer shall:

(1) Be at least 18 years of age;

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(2) Work at all times under the supervision of an on-duty staff person who meets at least the minimum qualifications for the position of direct care staff;

(3) Not be responsible for the care or supervision of residents including treatment, discipline, physical intervention, counseling, or administration of medication; and

(4) Not be included in the staff to child ratio.

(i) Supervision as referenced in (h) above shall require that a staff person who meets at least the minimum qualifications of direct care staff shall at all times have:

(1) Knowledge of and accountability for the activity and whereabouts of the child care interns, child care assistants, or volunteers and the residents with whom he or she is working; or

(2) The ability to either see or hear the child care intern, child care assistant, or volunteer and the residents with whom he or she is working.

(j) The exception to (i) above shall be that the program director or designee may at his or her discretion, authorize a specific child care assistant, intern or volunteer to be responsible for one or more residents during time limited, specific activities, either indoors or outdoors, including off premises.

(k) Prior to having contact with residents or food, personnel shall receive a tour of and orientation to the program that includes the following:

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(1) The program's complaint procedures;

(2) The duties and responsibilities of the position;

(3) The medical emergency procedures;

(4) The emergency and evacuation procedures;

(5) The infection control procedures;

(6) The program confidentiality requirements;

(7) Grievance procedures for both staff and residents;

(8) The procedures for food safety for personnel involved in preparation, serving, and storing of food, as applicable;

(9) The policies required in He-C 4001.14(a); and

(10) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.

(l) No new direct care staff shall be solely responsible for residents in care until he or she has completed the orientation required above.

(m) The licensee shall provide all personnel with an annual continuing education or in-service education training, which at a minimum contains the following:

- (1) The licensee's infection control program;
- (2) The licensee's written emergency plan;
- (3) The licensee's policies and procedures; and
- (4) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.

(n) The licensee shall:

- (1) Educate personnel about the needs and services required by the residents under their care and document such education to include demonstrated competencies; and
- (2) Ensure that all personnel have received the training necessary to be qualified personnel to include demonstrated competency in the training given with documentation maintained in the employee personnel file.

(o) Personnel and staff shall not:

- (1) Be impaired while on the job by any substances including, but not limited to, legally prescribed medication, therapeutic cannabis, alcohol, or illegal drugs; or
- (2) Expose residents to tobacco, alcohol, or illegal drugs or controlled substances.

He-C 4001.20 Staffing.

(a) Program staff shall provide care and supervision at all times to ensure that residents are safe and that their needs are met according to their developmental level, age, emotional or behavioral needs, and in accordance with their treatment plan.

(b) In all programs there shall be a program director that assumes responsibility for the daily operation of the program.

(c) Programs shall, at a minimum, maintain the following staff to resident ratios and retain documentation of it for a 6-month period:

- (1) Independent living homes shall maintain a minimum staff to resident ratio of one staff person to 8 residents during awake hours and one staff person to 12 residents during sleeping hours; and
- (2) All other programs shall maintain a minimum staff to resident ratio of one staff person to 6 residents during awake hours and one staff person to 12 residents during sleeping hours.

(d) Notwithstanding the required minimum staff to resident ratios specified in (c) above, when a staff person takes one or more residents off the premises for a routine trip, such as a medical or dental appointment, recreation or social activity, the program may have one fewer staff person with the residents who will remain on the premises of the program, provided that:

- (1) The program director or designee has authorized the reduced staff to resident ratio, based upon his or her determination that the staff remaining on the premises of the program can meet the individual needs of each resident; and

(2) In no case shall the staff to resident ratio go below one to 12.

(e) Notwithstanding the staff to resident ratios set forth in (c) and (d) above, when a resident's treatment plan requires that a resident needs a staff to resident ratio that is more stringent than the required staff to resident ratios, the program shall comply with the resident's treatment plan.

(f) The licensee shall assign at least one staff to help orient a newly admitted resident to the program and to the services available to the resident.

(g) Programs operating an SCP shall have sufficient hired and contracted staff to meet the needs of residents.

He-C 4001.21 Programming Requirements for Residents.

(a) Program staff shall, with input from the person or program placing the resident, have referral information on each resident, including:

- (1) The reason for the placement;
- (2) The anticipated length of stay;
- (3) The contact information for the parent or guardian; and
- (4) The contact information for the person or program placing the resident.

(b) Except for residents in short term placement, a written treatment plan shall be in place for each resident no later than 30 days from the date of admission.

(c) The written treatment plan required in (b) above shall identify:

- (1) The resident's physical, social, behavioral, medical, and educational needs; and
- (2) How the program will meet those needs.

(d) Program staff shall review and modify the written treatment plan required in (b) above as the resident's needs change.

(e) Once the written treatment plan required in (b) above is developed, program staff shall familiarize themselves with the identified needs of each resident, and implement the plan.

(f) The program director or designee shall:

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- (1) Not rely upon residents to maintain the facility; and
- (2) Only allow residents to perform work inside or outside the program, which is:
 - a. Compliant with child labor laws and regulations; and
 - b. Consistent with the resident's age and abilities.

(g) Program staff shall:

- (1) Plan daily activities that promote healthy development and provide for social relationships, creative activities, hobbies, and participation in neighborhood, school, and other community groups appropriate to the age, developmental level, and needs of each resident;

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- (2) Provide that work assignments for the resident do not interfere with the regular school programs, study periods, recreation or sleep;
- (3) Provide each resident with clothing that is individually fitted and appropriate to the season;
- (4) Instruct each resident regarding good health practices, including proper habits in eating, bathing and personal hygiene;
- (5) Provide each resident with a clean towel and washcloth weekly, or more often if towels or washcloths become soiled or odorous; and
- (6) Provide each resident with necessary individual toilet articles and supplies for personal grooming and hygiene suitable to their age and needs.
- (h) Each child shall have education and training, including:
- (1) Regular school attendance as required by law; and
 - (2) The opportunity to complete high school or the opportunity for vocational guidance.
- (i) Academic programs within the facility shall meet the requirements of the New Hampshire department of education.
- (j) Each child shall be given the opportunity to practice his or her religious beliefs.
- (k) The program staff shall assess the resident's needs and prepare a discharge plan at least 30 working days prior to the resident's discharge, except in the case of an unplanned or emergency discharge.
- (l) In the case of an unplanned or emergency discharge, the program staff shall prepare a discharge summary, which explains the circumstances of the discharge as soon as practicable.
- (m) The program shall not exceed the maximum number of residents licensed by the department, unless authorized by the department, such as during an emergency.
- (n) The licensee shall:
- (1) Establish procedures to prepare the staff and residents for the arrival of new resident; and
 - (2) Provide staff with appropriate information to receive the new resident and assist in his or her adjustment, which shall include at a minimum:
 - a. Reason for placement, medical condition(s), and behavior problems, as applicable; and
 - b. Specific instructions related to the individual needs of the resident, including the need for an individualized restraint method consistent with RSA 126-U, if appropriate.
- (o) Licensees shall:
- (1) Meet the needs of the residents;
 - (2) Initiate action to maintain the program in full compliance at all times with all relevant health and safety requirements contained in applicable federal, state, and local laws, rules, regulations, and ordinances;

- (3) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the program;
- (4) Verify the qualifications of all personnel; and
- (5) Provide sufficient numbers of personnel who are present in the program and are qualified to meet the needs of residents during all hours of operation.

He-C 4001.22 Discipline.

(a) Program staff shall:

- (1) Establish and make residents aware of rules or limits for acceptable behavior which are consistently applied, realistic, designed to promote cooperation and respect and are appropriate and understandable to the development level of the resident; and
- (2) Make residents aware of the consequences of not complying with the established limits or rules for acceptable behavior.

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(b) Program staff shall not:

- (1) Abuse or neglect residents;
- (2) Use corporal punishment;
- (3) Attempt to control any resident's behavior by actions which are humiliating, threatening, shaming, frightening or otherwise damaging to residents;
- (4) Withhold food from
- (5) Shame, humiliate or discipline any resident for toileting accidents;
- (6) Prevent a resident from using bathroom facilities, except as necessary to protect a resident's safety, as documented in the resident's case plan or treatment plan;
- (7) As a means of discipline or punishment:
 - a. Require or deny residents sleep or rest;
 - b. Require residents younger than 6 years of age to go to their crib, bed or playpen;
 - c. Withhold a resident's shoes or clothing, except as necessary to protect the resident's health or safety or to prevent the resident from running away;
 - d. Require a resident to perform physical exercise or perform tasks, which are humiliating, unusual or physically exhausting; or
 - e. Use group punishment for misbehaviors of individuals except when documented as part of the treatment plan;
- (8) Use sensory deprivation;
- (9) Use mechanical restraints, and specifically any equipment, material or device that is applied to a resident for the purpose of restricting his or her movement or activity; or

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- (10) Allow residents to discipline other residents.
- (c) Each use of time out shall:
- (1) Not be in a locked room;
 - (2) Be appropriate to the resident's developmental level and circumstances; and
 - (3) Be limited to the minimum amount of time necessary to:
 - a. Allow the resident to regain self-control;
 - b. Be effective as a consequence; or
 - c. Protect the safety of the resident in time out or other residents.
- (d) The applicant, licensee, program director and program staff shall take prompt action to protect residents from abuse, neglect, corporal punishment, or other mistreatment by any individual.
- (e) Program staff shall use restraint in accordance with RSA 126-U.
- (f) Program staff shall use seclusion in accordance with RSA 126-U.
- (g) The staff person in charge shall evaluate each use of seclusion at least every 60 minutes to determine if further use of this intervention is necessary.
- (h) Each use of seclusion or restraint shall be documented on an incident report in accordance with He-C 4001.23, He-C 4001.14(s)(5), and RSA 126-U:7.
- (i) The program director, treatment coordinator or designee shall review the documentation regarding each use of seclusion no later than one working day after its use, and sign and date the documentation.
- (j) Before any program staff participates in a physical intervention or the use of seclusion he or she shall have completed a curriculum in physical intervention techniques that is designed to protect the child from risk of harm to self, others, property or the public.
- (k) Physical intervention methods used shall be consistent with the curriculum required in (j) above and be reviewed annually with program staff to maintain competency.
- (l) Physical intervention shall be used only:
- (1) After less restrictive behavior management techniques have been tried and found to be ineffective in helping the resident gain control; and
 - (2) When necessary to:
 - a. Ensure the physical safety and security of the out of control resident, or other residents;
 - b. Prevent harm to program staff or other persons; or
 - c. Prevent serious damage to property.
- (m) To reduce the risk of injury to a resident as a result of physical intervention, program staff shall use the minimum amount of force necessary to control the resident.
- (n) During any physical intervention process, program staff shall evaluate the resident throughout the process, to ensure that the resident is not being injured, and to determine whether continued physical

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intervention is necessary. If the physical intervention exceeds 15 minutes, approval from the program director or a supervisory employee designated by the program director is required, per RSA 126-U:11, III.

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(o) In the event that a physical intervention continues for longer than 30 minutes:

- (1) Program staff trained to conduct such assessments shall conduct a face-to-face assessment of the resident's mental, emotional, and physical well-being;
- (2) Program staff shall contact the program director or designee so that he or she can evaluate the need for continued physical intervention and the need for services from law enforcement, or a licensed health care practitioner;
- (3) Such assessments shall be completed at least every 30 minutes throughout the physical intervention; and
- (4) Program staff shall document all assessments as required in He-C 4001.23(b)(2).

He-C 4001.23 Incident Reports.

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Edit: "y" (Please check all cross-references.)

(a) Program staff whom were directly involved in or witness to any incident shall complete a legible, written incident report whenever there is an incident, as defined in He-C 4001.01(w).

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(b) For reportable incidents, as defined in He-C 4001.01(ba), licensees shall have responsibility for:

- (1) Completing a preliminary review of an incident to determine if abuse or neglect could have been a contributing factor to the incident;
- (2) Providing the following information to the department within 48 hours of a reportable incident:
 - a. The program name;
 - b. A description of the incident, including what led to the incident, where it occurred and identification of injuries, if applicable;
 - c. The name of the licensee(s) or personnel involved in, witnessing, or responding to the reportable incident;
 - d. The name of resident(s) involved in or witnessing the reportable incident;
 - e. The date and the beginning and ending time of the reportable incident;
 - f. The action taken in direct response to the reportable incident, including any follow-up;
 - g. If medical intervention was required, by whom, and the date and time;
 - h. When the resident's guardian, agent, surrogate decision-maker or personal representative, if any, was notified;
 - i. The signature of the person reporting the reportable incident;
 - j. The date and time the resident's licensed practitioner was notified, if applicable; and
 - k. The date the licensee performed the preliminary review required by (1) above.

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- (3) For uses of seclusion, restraint, or other intentional physical contact with a child which is in response to a resident's aggression, misconduct, or disruptive behavior, in addition to (2) above, the following:
- a. Authorization by the staff in charge; and
 - b. Documentation as required by He-C 4001.23(b)(2) and either RSA 126-U:7 or RSA 126-U:10.
- (c) Incident reports shall be maintained as part of the involved resident's records and be made available on the premises of the program for review by the department.
- (d) Program staff shall provide the resident's parents with information regarding incident reports on the next business day, which shall include all of the information included on the incident report.
- (e) If the parent(s) do not have a telephone or cannot be reached, program staff shall document their efforts to notify the parent(s) and send a written copy of the incident report to the parent(s).
- (f) For uses of seclusion, restraint, or other intentional physical contact with a child which is response to a child's aggression, misconduct, or disruptive behavior, program staff shall notify the resident's parents or guardians in accordance with RSA 126-U:7 including verbal and written documentation.
- (g) Immediately following any fire or emergency incident, licensees shall notify the department by phone, followed by written notification within 72 hours, with the exception of a false alarm or emergency medical services (EMS) transport for a non-emergent reason.
- (h) The written notification required by (g) above shall include:
- (1) The date and time of the incident;
 - (2) A description of the location and extent of the incident, including any injury or damage;
 - (3) A description of events preceding and following the incident;
 - (4) The name of any personnel or residents who were evacuated as a result of the incident, if applicable;
 - (5) The name of any personnel or residents who required medical treatment as a result of the incident, if applicable; and
 - (6) The name of the individual the licensee wishes the department to contact if additional information is required.
- (i) As soon as is practicable but no longer than 24 hours after the use of a medication restraint, the resident's licensed practitioner shall be notified of the use of such restraint.
- (j) When a resident has an unexplained absence, after searching the building and grounds without finding the resident, and it has been determined that the resident is a danger to themselves or others, the licensee shall immediately notify the local police department, the department and the resident's guardian, agent, surrogate decision-maker, or personal representative, if any.

He-C 4001.24 Nutrition.

(a) Programs shall offer residents 3 meals and 2 snacks each day that meet US Department of Agriculture dietary allowances.

(b) Residents shall not be denied meals or snacks for any reason except according to a physician's order.

(c) No resident shall be secluded at mealtime unless he or she poses a risk of harm to himself, herself, or others.

(d) Residents shall not be coerced to eat against their will, except by written order of the resident's licensed health care practitioner.

(e) Programs shall meet the nutritional needs of each resident on a therapeutic or medically prescribed special diet.

He-C 4001.25 Transportation and Trips.

(a) Program staff shall bring on all field trips, a copy of the authorization for medical treatment required under He-C 4001.12 (a), for each resident participating in the field trip.

(b) Residents who are transported by the program and during any program sponsored activity shall be transported in vehicles that are:

(1) Driven by individuals who are at least 21 years of age and hold a valid driver's license;

(2) Inspected in accordance with Saf-C 3200;

(3) Maintained in a safe operating condition;

(4) Registered in accordance with Saf-C 500;

(5) Insured for personal liability, and medical payments; and

(6) Free of obstructions on the floors and seats.

(c) Program staff shall be prohibited from using cell phones while operating a vehicle to transport residents.

(d) Program staff shall not permit any resident to remain in any vehicle unattended by program staff unless the resident is at a level of supervision that allows the resident to be unaccompanied by program staff for specific activities, and if driving, the resident has a valid driver's license.

(e) Keys to vehicles, including vehicles belonging to program staff, shall not be accessible to residents, except for a resident who is driving a vehicle pursuant (d) above.

(f) The number of individuals who are transported by the program, or transported in any vehicle during any program-sponsored activity, shall be limited to the number of persons the vehicle is designed to carry.

(g) Residents younger than 5 years of age who are transported by the program or transported in any vehicle during any program sponsored activity shall not be transported in any vehicle exempted from seat belt requirements under RSA 265:107-a, II.

(h) In all programs individual, age appropriate child restraints or seat belts shall be provided for and used by each resident in accordance with RSA 265:107-a.

(i) Programs shall comply with RSA 126-U:12 regarding restrictions in the use of mechanical restraints during the transport of residents.

Adopt He-C 4001.29 through He-C 4001.31 to read as follows:

Edit: Delete.

He-C 4001.29 Specialized Care Programs (SCPs). Residents who have medical and/or behavioral health needs requiring specialized care necessitates programming that incorporates an increased awareness of the unique needs, as well as attention, adaptation, and accommodative measures beyond what are considered routine. For the purposes of this section, residents requiring specialized care shall include conditions defined in He-C 4001.01(bi), and which may be congenital, developmental, or acquired through disease, trauma or environmental causes, and which impose limitations in performing daily self-maintenance activities or substantial limitations in a major life activity.

(a) SCPs shall comply with:

Unclear: Incorrect cite.

Unclear as drafted.

(1) He-C 4001.01 through He-C 4001.25 and this section; and

(2) Any other federal, state, and professional standards related to the treatment of any medical diagnosis of any resident.

(b) SCPs shall develop and implement written policies and procedures governing the operation of the program relative to the provision of services, available for review by the department, that include the following:

(1) Intake and admissions procedures that clearly state the criteria for the SCP population to be served;

(2) A description of the services provided within the program to meet the special medical needs of the residents;

(3) A description of the professional services provided on site and in the local community that will be contracted or accessed to ensure the special medical needs of the residents are met;

(4) The organizational chart, job descriptions of staff, and contracts with medical staff, clinical staff and consultants used to meet the special medical needs of the population being served; and

Edit: comma

(5) How direct care staff will be orientated and trained to prepare to work with the population being served.

(c) The program director, together with relevant members of the administration, clinical and direct-care staff, shall annually review all policies and procedures and revise them as needed to ensure consistency with current practice and professional standards.

(d) All clinical services provided by the licensee shall:

(1) Focus on the residents strengths;

(2) Be sensitive and relevant to the diversity of the residents;

- (3) Be child and family-centered;
- (4) Be designed to acknowledge the impact of violence and trauma on resident’s lives, which shall be addressed in the services provided; and
- (5) For programs providing SUD services, the services shall be evidence-based by meeting one of the following:

- a. The services shall be included as an evidence-based mental health and substance abuse intervention on the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration’s (SAMHSA) “Evidence-Based Practices Resource Center” available at <https://www.samhsa.gov/ebp-resource-center>, or as noted in Appendix A;
- b. The services are published in a peer reviewed journal and found to have positive effects; or
- c. The treatment and support service provider shall be able to document the services effectiveness based on a theoretical model with validated research or a documented body of research generated from similar services that indicates effectiveness; and
- d. Be delivered in accordance with the following:

Unclear what option is intended.

Unclear. There is no edition date specified. If compliance with SAMHSA is already required by federal law, it is not an incorporation by reference requiring citation in Appendix A.

- 1. The American Society of Addiction Medicine’s (ASAM), “The ASAM Criteria”, (Third edition), available as noted in Appendix A; or
- 2. The U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration’s (SAMHSA) “Knowledge Application Program (KAP) Resource Documents and Manuals” available at <https://www.samhsa.gov/kap/resources>, or as noted in Appendix A.

(e) The licensee shall assess and monitor the quality of care and services it provides to residents on an ongoing basis.

(f) SPCs providing behavioral health services shall employ or with contract with:

(1) A clinical coordinator who shall:

- a. Be a full time employee;
- b. Meet the definition of clinical staff in He-C 4002.01(i); and
- c. Have 2 years post-graduate experience in human services; and

Edit: hyphen

(2) Clinical staff to meet the needs of the residents who shall:

- a. Be a full-time employee or a part-time employee with a minimum of 22 hours a week; and
- b. Meet the criteria specified in He-C 4002.01(j).

- (g) All programs providing SUD services shall employ or contract with:
- (1) A medical director who is:
 - a. A licensed practitioner who is licensed in the state of New Hampshire; and
 - b. Has experience providing medical services to residents with behavioral health or substance use disorder needs;
 - (2) A nurse who is currently licensed in the state of New Hampshire pursuant to RSA 326-B, or licensed pursuant to the multi-state compact, and who is an RN or LPN with at least 2 year's relevant experience in substance use disorder treatment or behavioral health services; and
 - (3) A clinical services director who is a LADC or MLADC licensed by the NH board of licensing for alcohol and other drug use professionals or an individual licensed by the board of mental health practice and who has at least 2 year's relevant experience in substance use disorder treatment or behavioral health services.
- (h) In addition to (g) above, SCPs shall:
- (1) Provide administrative services that include the appointment of a full-time, on-site program director who is responsible for the day-to-day operations of the SPC, who meets the following qualifications:
 - a. For programs providing SUD services, the program director shall be at least 21 years of age and have a minimum of one of the following combinations of education and experience:
 1. A bachelor's degree from an accredited institution and one year of relevant experience working in a health related field;
 2. A New Hampshire license as an RN, with at least one year relevant experience working in a health related field;
 3. An associate's degree from an accredited institution plus 3 years relevant experience in a health related field;
 4. A MLADC or LADC license issued by the State of New Hampshire; or
 5. Licensed by the board of mental health practice with at least one year of relevant experience working in SUD treatment; or
 - b. For SCPs not providing SUD services, the program director shall comply with the requirements specified in He-C 4001.19(e);
 - (2) Contract with or employ professional staff to meet the needs of residents, including but not limited to clinical, medical, and social needs; and
 - (3) Employ direct care staff to implement service plans on a daily basis.
- (i) The licensee shall:
- (1) Assign all direct care staff and clinical staff to a staff person who has supervisory or administrative responsibility and experience suitable to the goals of the program and the responsibilities of the staff supervised; and

(2) Require direct care and clinical staff to have scheduled supervision with the assigned supervisor regarding children's needs and methods of meeting those needs, which shall occur a minimum of weekly or more frequently as needed.

(j) The licensee shall provide orientation for all new employees to acquaint them with the program's philosophy, organization, policies, and services. No new direct care staff shall be solely responsible for children in care until s/he has completed the orientation.

(k) Programs providing SUD services shall:

Edit: "he or she"

(1) Assure that all staff who perform direct care to residents or who are providing treatment, education, and recovery support services shall be under the direct supervision of a licensed clinical supervisor pursuant to the supervision requirements in Alc 400;

Edit: "Ensure"

(2) Provide the SPC with sufficient supplies, equipment, and lighting to ensure that the needs of residents are met;

(3) Implement any POC that has been accepted or issued by the department;

(4) Require that all personnel follow the orders of the licensed practitioner for each resident and encourage the residents to follow the licensed practitioner's orders;

(5) Employ or contract with a nurse who is currently licensed in the state of New Hampshire pursuant to RSA 326-B, or licensed pursuant to the multi-state compact, and who is an RN or LPN with at least 2 year's relevant experience in SUD treatment or behavioral health services;

Edit: "years' "

(6) Employ or contract with a clinical services director who is a LADC or MLADC licensed by the NH board of licensing for alcohol and other drug use professionals or an individual licensed by the board of mental health practice and who has at least 2 years relevant experience in treatment of SUD or behavior services; and

Edit: Delete.

(7) Require staff to obtain continuing requirements, in accordance with in Alc 400, and maintain documentation of the training in the employee's individual personnel file for review by the department.

(l) In programs providing SUD services, all direct care personnel shall be at least 21 years of age unless they are:

(1) A licensed nursing assistant working under the supervision of a nurse in accordance with Nur 700; or

(2) Involved in an established educational program working under the supervision of licensed staff.

(m) An SCP that is not able to meet the needs of any resident whom requires specialized care, as described in this section, shall notify the department and expeditiously seek an alternative placement, which can provide for the residents' needs on a long-term basis and ensure that all needs are met until such time discharge can safely occur.

Edit: "resident's"

(n) SCPs shall assess each resident within 24 hours of admission to determine each resident's needs and abilities on the following:

(1) Walking and ambulation;

- (2) Transfers;
- (3) Ability to self-evacuate;
- (4) Fall risk;
- (5) Mood and behavior;
- (6) Communication;
- (7) Nutrition and oral health;
- (8) Medications and treatments (nebulizers, oxygen, etc.);
- (9) Personal hygiene and assistance with activities of daily living;
- (10) Whether or not safety devices, such as helmet, mittens, or safety belt, are needed; and
- (11) Nursing care and services.

Edit: Do not use parenthetical rules or abbreviations.

(o) The assessment conducted in accordance with (n) above shall be:

- (1) Incorporated into the resident's service plan/treatment plan; and
- (2) Documented in the resident's file and available for review by department staff.

(p) In addition to the treatment plan required in He-C 4001.21(b), SCPs shall develop a service plan, meaning a written guide, in consultation with the resident and/or guardian, agent or personal representative, if applicable, as a result of the assessment conducted in accordance with (n) above for the provision of care and services which shall:

Edit: Delete.

- (1) Be completed within 24 hours of the completion of the assessment and within 24 hours of the completion of subsequent assessments;
- (2) Identify the resident's needs;
- (3) Identify the services that the SCP will provide and the staff person responsible for providing or arranging for the services while the child is in care;
- (4) Include the following areas:
 - a. Educational;
 - b. Vocational;
 - c. Health, including medical, dental and ancillary services;
 - d. Behavior management, including specific individual modifications of the restraint plan, if necessary;
 - e. Life skills; and
 - f. Social services, including family work, psychological and psychiatric services and counseling; and

Edit: comma

- (5) Be made available to all personnel for residents whom they assist;
- (6) Be completed in consultation with the resident and guardian or agent, if any, unless the resident and guardian or agent are unable or unwilling to participate, it shall be documented in the resident record; and
- (7) Be available on site for review by the department.
- (q) The service plan identified in (p) above shall include on an ongoing basis:
- (1) The date a problem or need was identified as a result of the assessment conducted in (n) above;
 - (2) A description of the problem or need;
 - (3) The goal or objective of the plan;
 - (4) The action or approach to be taken;
 - (5) The responsible person(s) or position; and
 - (6) The date of reevaluation, review, or resolution.
- (r) The licensee shall explain all service plans to all child care personnel responsible for implementing the service plan on a daily basis, to the child's family or guardian, as appropriate, and to the resident in a manner consistent with her or his maturity and capacity to understand.
- (s) All service plans shall be reviewed and updated as often as necessary, but no less frequently than every 6 months to re-assess the resident's needs and determine if:
- (1) The service plan will be continued for another 6 months;
 - (2) The service plan will be revised to meet the needs of the resident; or
 - (3) The service plan will be discontinued because the plan is no longer needed; and
 - (4) Shall be available for review by the department.
- (t) Progress notes shall be written at least every 90 days and include, at a minimum:
- (1) Service plan outcomes;
 - (2) The resident's physical, functional, and mental abilities; and
 - (3) Changes in behavior, such as eating habits, sleeping pattern, and relationships.
- (u) If a resident refuses care or services that could result in a threat to their health, safety, or well-being, or that of others, the licensee or their designee shall:
- (1) Inform the resident of the potential results of their refusal;
 - (2) Notify the licensed practitioner and guardian, if any, of the resident's refusal of care; and

Edit: comma

(3) Document in the resident's record the refusal of care and the resident's reason for the refusal.

(v) If a resident is non-verbal or incapable of understanding the need for care or services as identified in (u) above but exhibits behaviors that represent refusal of any care or services:

(1) Such behaviors shall be documented in the resident's record; and

(2) Staff shall consult with appropriate personnel of the SCP to determine if the care plan requires modifications or if the needs of the resident exceed the services that the SCP is able to provide.

(w) The licensee shall insure that medically necessary glasses, hearing aids, prosthetic devices, corrective physical or dental devices, or any equipment necessary or treatments prescribed by the examining physician are provided to the resident if the resident's parent or guardian does not provide them.

(x) The licensee shall not require any resident to receive medical treatment or screening when the parents of such resident object based on sincerely held religious beliefs. However, the SPC may seek a court order for medical treatment of a resident if it believes such medical treatment is in the resident's best interest.

He-C 4001.30 Treatment Planning Process for Specialized Care Programs.

(a) SCPs shall conduct a psycho-social assessment with recommendations for treatment for the resident.

(b) Based on the assessment and recommendations, the SCP shall conduct a treatment team meeting and develop a treatment plan within 30 calendar days of placement of the child.

(c) The treatment plan shall include:

(1) The summary of the psycho-social assessment;

(2) A transitional section for the child and family that includes:

a. An estimate by the treatment team members of the child's length of stay, based upon referral information and the SCP's assessment; and

b. The child's permanency plan identifying the following alternatives for the child in care, including the identified resource if known at the time of the treatment plan:

1. Reunification with the family;

2. Adoption;

3. Guardianship by a relative or other person;

4. Permanent placement with a fit and willing relative; or

5. Another Planned Permanent Living Arrangement (APPLA) in accordance with RSA 169-C:24-b, II(c); and

(3) Community reintegration and transition tasks that identify the following:

- a. Specific needed supports or services that would provide for the child to successfully transition out of the SCP and into the community;
- b. The treatment team member who is responsible for completing each task necessary; and
- c. The projected time frame for completion of each task.

(d) The treatment plan shall at a minimum, contain the following domains relating to rehabilitative and restorative services provided by the SCP:

- (1) Safety and behavior of the child;
- (2) Family;
- (3) Medical;
- (4) Education, if clinically necessary; and
- (5) Adult living preparation if determined clinically necessary.

(e) Each domain identified in (e) above shall address:

- (1) The goals and measurable objectives to be achieved by the child and family;
- (2) The time frames for completion of objectives; and
- (3) The individualized interventions that will be used to address the objectives, including:
 - a. Identification of the staff or individual providing or implementing the stated intervention;
 - b. The frequency of the intervention; and
 - c. How that intervention is documented.

(f) The treatment plan shall include the date and signatures of the following team members, indicating that they participated in the process:

- (1) The child;
- (2) The child's parents or guardian(s);
- (3) The prescribing practitioner; and
- (4) The clinical coordinator or the SCP's program director. If the prescribing practitioner is also the clinical coordinator, ~~he/she~~ shall indicate dual functions.

(g) When any of the individuals in (f) above do not participate, the SCP shall document its efforts to involve them.

Edit: "he or she"

(h) Revisions to the treatment plan outside the scheduled treatment plan reviews shall include the signatures of the prescribing practitioner, clinical coordinators, and other team members identified in (f) above, as available, and shall be explained in writing to any individuals of the team who are unable to participate.

(i) The treatment team and the staff of the SCP shall implement the treatment plan, which shall be reflected in the child's daily routine, logs, progress notes, and discharge summary.

(j) The treatment team shall consist of the individuals identified in (f) above in addition to the following invited participants:

- (1) Clinical staff of the SCP;
- (2) Attorney or guardian ad litem (GAL) for the child;
- (3) A representative of the local educational agency when clinically appropriate;
- (4) Other persons significant in the child's life if clinically appropriate, including but not limited to:
 - a. Teachers;
 - b. Staff members from the SCP;
 - c. Counselors;
 - d. Friends;
 - e. Relatives; and
 - f. Educational surrogate.

(k) The treatment plan shall be filed in the child's record and copies provided to the individuals identified in (f) above.

(l) During each treatment team meeting, the treatment team shall review and update the treatment plan as necessary, in accordance with the following:

- (1) Three months from the initial treatment plan; and
- (2) Every 3 months thereafter until discharge, at no point exceeding 3 months.

(m) Changes and updates to the treatment plan shall be made based on progress identified by the treatment team, areas of continued treatment needs, achievement of goals or objectives, and effectiveness of interventions, in accordance with the requirements of (f) through (l) above.

(n) SCPs shall acquire signatures on the treatment plans of individuals identified in (f) above within 7 calendar days of the treatment team meeting, such that:

(1) Reasonable efforts to obtain the signature of the parent(s)/guardian(s) and DCYF shall be documented as meeting the requirements of (n); and

(2) Any team members participating through electronic means, other than the prescribing practitioner or clinical coordinator, may provide verbal assent in lieu of signature on the treatment plan but this shall not preclude efforts identified in (1) above.

Edit: "ensure"

(o) Once the treatment plan is complete, all clinical and direct care staff shall receive supervision and instruction to ~~assure~~ that they consistently implement each child's treatment plan.

(p) All residential treatment programs shall provide and coordinate services and treatment interventions to meet the goals identified in the treatment plan, as follows:

(1) Treatment interventions shall meet the individual needs of the children and families in therapeutic and group-living experiences;

(2) Treatment programs shall include individual/group problem solving and decision-making;

(3) The clinical coordinator shall ensure therapeutic interventions and other services are implemented and integrated into the treatment programming for the individual child and family;

(4) Services required by the treatment plan including individual, group, and family counseling to children shall be available within the SCP or shall be referred to community agencies depending on the need of the child and family; and

(5) Direct care staff that provides group counseling shall receive supervision from clinical staff.

(q) Services required by the treatment plan, including counseling of children and families, shall be available within the SCP or shall be provided through the local community, as follows:

(1) Treatment plans shall provide and allow for increased community-based integration and involvement, based on progress and individualized needs; and

(2) The clinical coordinator or another staff member who meets the requirements of clinical staff may provide individual or family counseling;

(r) The program shall maintain a multi-disciplinary, self-contained means of service delivery to meet the needs identified within the treatment plan, as follows:

(1) There shall be a clinical staff to child ratio of one clinical staff to 10 children;

(2) There shall be clinical services provided through the residential treatment program's on-site program unless a special circumstance is identified through the treatment plan to support utilizing a community provider;

(3) Clinical staff shall provide treatment interventions to meet the individual needs of the children and families served and shall provide a therapeutic group-living experience;

- (4) Unless otherwise specified in the child's treatment plan, any combination of individual, group, or family counseling services shall be provided to each child or the family a minimum of 3 times a week;
- (5) There shall be a family-centered services component designed to promote and provide opportunities for families to be involved in all aspects of their child's care, including, but not limited to:
 - a. Activities designed to promote permanency and support continued family involvement throughout placement;
 - b. Services that promote family involvement and partnership in a therapeutic process from intake to discharge, which supports the identified permanency plan;
 - c. Implementation of the reasonable and prudent parent standard by staff including a description of how the program will identify and support normal age and developmental experiences including social, extracurricular, enrichment, and cultural activities in the community;
 - d. Whenever possible, activities in the family's home at the family's convenience, and other services to support the identified permanency plan;
 - e. Parental education, as needed to support the child and family's permanency, safety, and well-being;
 - f. Communication that includes the family in the program's initial orientation process and ongoing activities; and
 - g. The program's grievance procedures, which shall ensure that children may constructively address their concerns without fear of retaliation; and
- (6) The residential treatment program shall organize its clinical staff and family workers in a flexible manner so long as families are seen face-to-face no less than one time per week, unless otherwise specified in the child's treatment plan, as follows:
 - a. Technology may be used to supplement clinical services as a part of the child's treatment; and
 - b. The utilization of a video-conferencing technology shall not replace face-to-face contact unless documented in the child's treatment plan with the agreement of the treatment team;
- (s) The program shall be staff-secure and be able to serve those children whose needs require a high level of treatment and supervision, as follows:

- (1) There shall be a minimum staff to child ratio of one staff to 4 children during hours when children are awake; and
- (2) Except for residential treatment programs that have an independent living component housed in a separate area and have the capability of moving children that need more supervision back to the intensive care level, there shall be an awake staff member in each building housing children.

He-C 4001.31 Background Checks and Determination of Eligibility for Employment.

(a) The applicant, program director, or his or her designee shall complete and submit to the child care licensing unit (CCLU) the “Staff and Household Member Form” (CCLU 2-B eff. 2020):

- (1) Prior to the start date of any employee, volunteer, or other individual who will be working in the residential program licensed by CCLU;
- (2) Within 5 days from when an individual who is a household member turns 18 years of age, other than residents admitted to the program;
- (3) Prior to the day any individual age 10 and older becomes a household member, other than residents admitted to the program; or
- (4) Three months before the 5- year anniversary date on which the current individual’s state and federal criminal records checks were last completed.

(b) In accordance with RSA 170-E:29-a, for every individual 18 years of age or older submitted on “Staff and Household Member Form”, the program shall ensure that the individual completes:

- (1) A criminal history record check through the NH department of safety, criminal records unit, to include an electronic submission of fingerprints for a check Federal Bureau of Investigations file, with authorization for the release of the criminal history record check to the child care licensing unit, in accordance with the department of safety’s policy and procedure;
- (2) A completed and notarized Form CCLU 2 “NH Child Abuse and Neglect Central Registry Name Search Authorization” (eff 2020); and
- (3) All forms and any required fees to complete registry checks in states or territories other than NH when the individual lives or has lived in any state other than NH, or a United States territory, within the previous 5 years.

(c) The only exception to (b) above shall be for individuals who have been determined eligible by the unit during the previous 5 year period and who have been employed or a household member in any New Hampshire licensed child care program within the 6 months prior to submission of the “Staff and Household Member Form” (2020).

(d) For every individual age 10 years through 17 years submitted on “Staff and Household Member Form” (2020), the program shall submit to CCLU:

Unclear/Legis. Intent: This form contains an attestation requirement that cannot be incorporated by reference and must be specified in the rules.

(1) A completed and notarized Form CCLU 2 “NH Child Abuse and Neglect Central Registry Name Search Authorization” (eff 2020); and

(2) All forms and any required fees to complete registry checks when the individual has lived in any state other than NH, or a United States territory, within the previous 5 years.

(e) The only exception to (d) above shall be for individuals who completed the registry checks through the unit during the previous 5 year period and who have been employed or a household member in any New Hampshire licensed child care program within the 6 months prior to submission of the “Staff and Household Member Form” (2020).

(f) The program director and any direct care staff listed on the “Staff and Household Member Form” (2020), who do not have a current employment eligibility card shall submit to the department:

(1) A completed application Form CCLU 1-C “DHHS/Office of Legal Services, Child Care Licensing Unit Employment Eligibility Card Application” (11/2017); and

(2) A non-refundable \$50.00 fee payable in cash, or if paid by check or money order, the exact amount of the fee made payable to the “Treasurer, State of New Hampshire”; or Edit: period

(g) Upon receipt of the information requested in (f) above, the department shall assess the individual’s eligibility for employment in accordance with RSA170-E:29-a, V or VI, and if eligible, issue an employment eligibility card, which shall be valid for 5 years from the date of issuance.

(h) Once the employment eligibility card is issued, the individual shall reapply for the employment eligibility card as necessary to keep the card current while the individual works in the residential program.

(i) The following individuals are exempt from the requirement to obtain an eligibility card in (f) above:

(1) Applicants;

Edit: “shall be”

(2) Volunteers;

(3) A student participating in a work study program, internship, practicum, or attending college full time; and

(4) Employees determined eligible to work prior to the 2020 effective date of this rule, who remain employed by the same licensee at the time of submission of the “Household and Personnel Form” (2017) as required in (a) above; Edit: period

(j) A copy of each individual's “Staff and Household Member Form” (2020) returned to the program by the unit, along with a copy of his or her non-expired child care employment eligibility card, as applicable, shall be on file at the program.

(k) If the department determines that an individual is ineligible, in accordance with RSA170-E:29-a, V or VI, it shall provide notice to the individual that:

- (1) The individual has been determined by the department to be ineligible;
 - (2) The basis for the determination that the individual is ineligible; and
 - (3) The individual’s right to challenge his or her criminal record pursuant to Saf-C 5703.
- (l) The department shall include in its notice under (d) above:
- (1) The basis for the determination that the individual poses a risk; and
 - (2) The need for the residential child care program to inform the department in writing of the specific action it has taken as required under (d)(2) above.

(m) If the department determines that an individual is ineligible to work in child care, in accordance with RSA 170-E:29-a, V or VI, it shall provide notice to the residential child care program that:

- (1) The individual has been determined by the department to be ineligible;
- (2) The program shall take immediate action to prohibit the individual from being on the premises of the residential child care program and from having access to the residents admitted to the program; and
- (3) The need for the residential child care program to inform the department in writing of the specific action it has taken as required under (2) above.

← Edit: Delete.

← Edit: “shall”

Note to JLCAR on Legis. Intent: The rulemaking public hearing for this proposal was to be held on 9/15/20 as an in-person hearing and as a remote public hearing accessed by Zoom. RSA 541-A:11 appears to presume in-person hearings only, since it refers to postponements due to inclement weather and changing the location of a hearing, and the statute has never been interpreted to allow for remote hearings, with their additional requirements affecting access compared to in-person hearings. RSA 541-A:41 states that RSA 541-A governs all agency rulemaking hearings unless specifically excepted. The Department’s He-C 205 on non-adjudicative public hearings also does not address any special procedures for participation in remote hearings. While the Governor’s E.O. #12 amends RSA 91-A to allow for remote hearings, that does not apply to departments. However, as with prior remote hearings for other agencies, the JLCAR has examined this issue case-by-case to see how well the remote hearing worked. The JLCAR may wish to ask the Department how the Zoom hearing proceeded, since RSA 541-A:11, l(a) requires that an agency “shall afford all interested persons reasonable opportunity to testify...in accordance with the terms of the notice.” A legislative fix may be needed in RSA 541-A:11, along with changes to all Chapter 200 rules, to clearly allow for remote rulemaking hearings.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-C 4001.29(d)(5)a.	U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration’s (SAMHSA)	Publisher: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration Cost: Free of Charge The incorporated document is available at: https://www.samhsa.gov/ebp-resource-center

Rule	Title	Publisher; How to Obtain; and Cost
	“Evidence-Based Practices Resource Center”	
He-C 4001.29(d)(5)d.1.	The American Society of Addiction Medicine’s “The ASAM Criteria” (Third Edition)	Publisher: The American Society of Addiction Medicine Cost: Member: \$85.00/ Non-Member \$95.00 The incorporated document is available for purchase at: https://www.asam.org/resources/the-asam-criteria
He-C 4001.29(d)(5)d.2.	U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration’s “Knowledge Application Program (KAP) Resource Documents and Manuals”	Publisher: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration Cost: Free to the Public The incorporated document is available at: https://www.samhsa.gov/kap/resources

APPENDIX B

RULE	STATUTE
He-C 4001.01	RSA 170-E:24; RSA 170-E:25; RSA 170-E:34
He-C 4001.02	RSA 170-E:28; RSA 170-E:29-a
He-C 4001.04	RSA 541-A:29
He-C 4001.07	RSA 170-E:29; RSA 170-E:29-a; RSA 170-E:34, I(e); RSA 170-E:40; RSA 170-E:49
He-C 4001.10	RSA 170-E:33, II; RSA 170-E:34, I(a)(1), (7); RSA 170-E:34, I(c)
He-C 4001.12	RSA 170-E:34, I(a)(4); RSA 170-E:34, I(a)(5); RSA 170-E:42; RSA 141-C
He-C 4001.13	RSA 170-E:34, I(a)(4); RSA 170-E:34, I(a)(5)

He-C 4001.14	RSA 170-E:34, I(a)(4); RSA 170-E:34, I(b); RSA 126-U:7, II
He-C 4001.15	RSA 170-E:34, I(a)(4),(5),(6); RSA 170-E:42
He-C 4001.16	RSA 170-E:34, I(a)(4); RSA 126-U:5-b
He-C 4001.17	RSA 170-E:34, I(a)(4)
He-C 4001.18	RSA 170-E:34, I(a)(4)
He-C 4001.19	RSA 170-E:34, I(a)(2)
He-C 4001.20	RSA 170-E:34, I(a)(2); RSA 170-E:34, I(b)
He-C 4001.21	RSA 170-E:34, I(a)(5), (7)
He-C 4001.22	RSA 170-E:34, I(a)(9); RSA 126-U; RSA 126-U:7
He-C 4001.23	RSA 170-E:34, I(a)(7); RSA 126-U:7; RSA 126-U:10
He-C 4001.24	RSA 170-E:34, I(a)(5)
He-C 4001.25	RSA 170-E:34, I(a)(5); RSA 265:107-a
He-C 4001.29	RSA 170-E:25, II(c); RSA 170-E:34, I(b)
He-C 4001.30	RSA 170-E:25, II(c); RSA 170-E:34, I(b)
He-C 4001.31	RSA 170-E:29-a, I and I-a; RSA 170-E:34, I.(a)(2)



HEALTH OFFICER INSPECTION REPORT FOR RESIDENTIAL CHILD CARE AGENCIES

THIS SECTION MAY BE COMPLETED BY PROGRAM PERSONNEL

Name of Agency: _____ Type: _____

Program Director: _____ License Number: _____

Street: _____ City: _____ Zip: _____

THE REMAINDER OF THIS FORM MUST BE COMPLETED BY THE HEALTH OFFICER INSPECTOR

He-C Rule		STANDARDS	COMMENTS
4001.17	Y N	Is the environment free from any hazardous conditions?	
4001.18(a)(1) & (2)	Y N	Is there hot (100°-120° F) and cold running water under pressure available for household use?	
4001.18(a)(3)-(5)	Y N	Has water been tested within the last 12 months and are lab test results available for non-public systems?	
4001.18(b)	Y N	Is there adequate sewage disposal?	
4001.17(a)(6) & 4001.16 (b)(7)	Y N	Is there adequate protections against insects/rodents such as screens for all operable windows in the facility?	
4001.17(d) & (e)	Y N	Are all toxic materials such as cleaners, medicines, household chemicals and paints stored separately from food items and inaccessible to children?	
4001.17(g)	Y N	If are pets or animals are present, is there current rabies vaccination documentation? (Turtles, parakeets, and parrot-like birds are not allowed)	
4001.17(h)(2)	Y N	Enclosed areas kept at not less than 65 °F during waking hours, except for areas being used for physical exercise & recreation and not less than 55°F during sleeping hours?	
4001.17(i)	Y N	Are staff smoking in a designated area out of sight of residents including preventing exposure of the residents to 2 nd hand smoke?	
4001.17(h) & (j)	Y N	Is child care space well lighted, heated and ventilated?	
4001.17(q)	Y N	Are food services activities in compliance with state Sanitary Food Codes or equivalent local ordinances?	
4001.17(a)(7)	Y N	Are garbage and rubbish stored in a sanitary manner?	
4001.17(m)(1) & (2)	Y N	Does each child have a separate bed with appropriate mattress and linens?	
4001.17(m)(2)a.	Y N	Are sheets/pillow cases cleaned weekly?	
4001.18(c)	Y N	Is there a complete bathroom unit for every 4 children?	
4001.17(n)	Y N	Are there separate sleeping/toilet facilities for resident staff?	
4001.17(o)	Y N	Are recreation areas protected from and free of hazards?	
4001.17(p)(2)a. & b.	Y N	Are swimming pools maintained in a safe and sanitary manner?	

MAXIMUM NUMBER OF CHILDREN INCLUDING AGE RANGE & APPROVAL STATUS FOR EACH BUILDING

Table with 4 columns: Bldg. #1, Bldg. #2, Bldg. #3, Bldg. #4. Each column contains fields for Maximum #, Youngest/Oldest age range, and Approved Y/N status.

If not approved, list reasons in comments section below. If approved with conditions, include an explanation in the comments section below and indicate what action must be taken by the child care program and an approximate date that you will conduct a re-inspection.

COMMENTS:

PLEASE TYPE OR PRINT CLEARLY:

Name of Inspector: _____ Title: _____
Address: _____ Work Phone Number: _____
Home Phone (Optional): _____
Inspected by: _____ for _____, NH _____

Expiration of Appointment (If applicable):

Date: _____ Approved _____ Disapproved for License _____ Maximum No. of Children
Date: _____ Received by: _____ for the facility.

DHHS/OFFICE OF LEGAL SERVICES, CHILD CARE LICENSING UNIT

129 PLEASANT STREET, CONCORD, NH 03301
Telephone 1-800-852-3345 Extension 9025 or 603-271-9025

STAFF AND HOUSEHOLD MEMBER FORM

Complete this form for ALL new staff or household members ages 10+ upon first day of hire or residence.

Questions? Call 603-271-9025

PLEASE TYPE OR PRINT LEGIBLY USING BLACK INK. (PLEASE KEEP A COPY FOR YOUR RECORDS)

PROGRAM NAME, ADDRESS, AND LICENSE NUMBER MUST BE COMPLETE OR THIS FORM WILL NOT BE ACCEPTED.

Program Name _____	License # _____
Mailing Address (PO Box or Street) _____	
City _____	State _____ Zip Code _____

FOR OFFICE USE ONLY _____ the individual listed on this form is eligible to work/reside at residential child care agencies in the state of New Hampshire.

LAST NAME, (MAIDEN NAME) FIRST NAME, MIDDLE INITIAL YOU MUST INCLUDE MAIDEN NAME, PREVIOUS MARRIED NAME, AND ANY/ALL OTHER NAME(S) IF APPLICABLE.	DOB MM/DD/YY	Child Care Eligibility Card # and Expiration Date For Individuals 18+ (if one has been issued)

Today's Date: _____ Employee/Household Member Start Date: _____

Household Member (person, age 10+, who resides at the location where child care is offered but is not an employee or admitted resident)

Position hired for (using CCLU descriptions and qualifications)

Institution:

- Program Director
 Direct Care Staff
 Child Care Assistant
 Other: _____ (cook, office, others in contact with children)

Other than NH, in what states have you lived in the last five years (dates of residence, add additional sheet if necessary):

Dates (From - To)	City and State

Your current mailing address:	Your current physical address (if different):

Previous 6 months NH child care employment (add additional page if necessary):

Dates (start-finish)	Program Name	Town

I hereby swear that:

- a) All information provided above is accurate.
b) I have not been convicted of a *felony* consisting of murder, child abuse or neglect, crimes against children (including pornography and trafficking), spousal abuse, rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug related offense (in the last 5 years) or convicted of a violent *misdemeanor* committed as an adult against a child including child abuse, child endangerment, sexual assault or child pornography, or a crime which shows that I might be reasonably expected to pose a threat to a child, such as violent crime or sexually related crime against an adult.

CCLU will investigate all criminal records, sex offender registries and abuse and neglect registries and offer opportunity for eligibility. **The crimes listed in b above exclude you from eligibility.** You can challenge all criminal records through either the state police or the FBI.

Your signature: _____ Date: _____

Signed under penalty of unsworn falsification pursuant to NH RSA 641:13

Effective: 2020



NH CHILD ABUSE AND NEGLECT CENTRAL REGISTRY NAME SEARCH AUTHORIZATION
CHILD CARE LICENSING RELEASE OF INFORMATION

I hereby request the NH Department of Health and Human Services (NH DHHS) to conduct a name search to determine if I am listed on the Department's Central Registry of founded reports of child abuse and neglect. My full legal name, other names I have used in the past, and other identifying information are listed below.

CURRENT FULL LEGAL NAME (please print legibly): _____
OTHER NAMES (ALIASES) I HAVE USED, INCLUDING MAIDEN NAME (if applicable): _____
DATE OF BIRTH: _____ TELEPHONE NUMBER: _____
month day year
CURRENT ADDRESS: _____
number and street name
mailing address if different city or town state zip code

NAME OF CHILD CARE PROGRAM: _____ LICENSE NUMBER: _____
number and street name city or town state zip code

I acknowledge that the results of this search can only be released to myself or the Department of Health and Human Services pursuant to RSA 170-E for the purpose New Hampshire Child Day Care Licensing.

SIGNATURE: _____ DATE: _____
Sign in the presence of a notary

NOTARY ACKNOWLEDGEMENT

State of: _____
County of: _____
Subscribed and sworn before me on this _____ day of _____, _____ in the year _____ by _____ (name of person being checked)
[] Personally known [] Produced Identification
Signature of notary: _____
My commission expires: _____

In witness whereof I hereunto set my official seal.

For official use only

In order to process this request please mail form to:

Child Care Licensing Unit
Department of Health and Human Services
129 Pleasant Street Concord, NH 03301

DHHS/OFFICE OF LEGAL SERVICES, CHILD CARE LICENSING UNIT129 PLEASANT STREET, CONCORD, NH 03301
Telephone 1-800-852-3345 Extension 9025 or 603-271-9025**EMPLOYMENT ELIGIBILITY CARD APPLICATION**

Please complete **ONLY** the section of this application that pertains to your request, ensuring that it is completed fully in ink, and legible. Incomplete or illegible forms will be returned to the applicant for completion, which will delay the process. All signatures must be original. Photocopies of the signed form will **NOT** be accepted. See instructions on page 2 for an explanation of each section.

EMPLOYEES NAME AND MAILING ADDRESS MUST BE COMPLETE OR THIS FORM WILL NOT BE ACCEPTED

First Name _____	Last Name _____
Mailing Address (PO Box or Street) _____	
City _____	State _____ Zip Code _____

FOR OFFICE USE ONLY _____ Enclosed is your employment eligibility card. This card is the property of the employee and is to be retained by you for child care employment purposes. You should provide a **COPY** of this card to your employer upon request/hire.

Per 170-E:7 IV-a., after the department has made a determination that an individual required to complete a criminal record check under paragraph 170-E:7, I does not pose a present threat to the safety of children, the department may issue a child care employment eligibility card, which shall be valid for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual remains eligible as described in subparagraph 170-E:7 II-a(b). The state may require additional background checks to be completed based upon conviction information submitted.

FIRST CARD (\$50.00 Fee)

ALL Previous Last Names: _____ Date of Birth: _____
Name of Program: _____ Program Lic. #: _____

RENEWAL CARD (\$50.00 Fee)

ALL Previous Last Names: _____ Date of Birth: _____
Name of Program: _____ Program Lic. #: _____
Child Care Eligibility Card #: _____ Expiration Date: _____

REPLACEMENT CARD (\$15.00 Fee)

ALL Previous Last Names: _____ Date of Birth: _____
Name of Program: _____ Program Lic. #: _____
Child Care Eligibility Card #: _____ Expiration Date: _____

*Include payment payable to: **Child Care Licensing Unit**

My signature below certifies I am the individual listed above and the information provided is true.

Signature: _____

Date: _____

Signed under penalty of unsworn falsification pursuant to RSA 641:3

FIRST, determine if you are required to apply for an Employment Eligibility Card at this time; then read each option below carefully to determine which section on page 1 best fits your need. Please complete ONLY the section of this application that pertains to your request.

BOTH pages of this form must be printed and filled out in order to make your submission complete.

Employment Eligibility Card Applications are to be completed by the **employee**. ALL employment eligibility cards are the property of the employee and will be mailed directly to the employee via the mailing address provided on page 1 of this application. A COPY of the card shall be in the employees file at the program and be available for review by licensing staff.

Who is required to obtain an employment eligibility card? Anyone 18 years of age or older in one of the following roles: center directors who do not own their programs; all child care personnel working with children who are employed by the program; family child care workers; and family child care assistants. **EXCEPTION:** Those individuals listed above are NOT required to obtain a card if they completed a background check through DHHS (i.e. Foster Care, Bureau of Child Development and Head Start Collaboration, CCLU) prior to October 1, 2017 and are working for the same licensee at the time they renew their background check.

Am I required to apply for an Employment Eligibility Card now?

Did you complete a fingerprint based background check AFTER January 1, 2018?

NO – STOP, DO NOT apply for an Employment Eligibility Card

YES – Are you still working for the same child care program you were working for before October 1, 2017?

- o YES – STOP, DO NOT apply for an Employment Eligibility Card
- o NO – Complete page 1 AND fill in the blanks below to indicate when and where you completed your fingerprint based background check

Date Completed: _____ Location (i.e.: Manchester DMV, Lebanon PD): _____

NOTE: If you have left employment from the program you have answered YES to above, but have not worked in any other child care since leaving, have not been separated from employment from that program for more than 180 days AND are returning to the same program to work then STOP, DO NOT apply for an Employment Eligibility Card.

What section of this application do you complete?

- The 'First Card' section if you have never had an Employment Eligibility Card;
- The 'Renewal Card' section if you have an Employment Eligibility Card that is expiring – **please include your current card number**; or
- The 'Replacement Card' section if you have misplaced your card.

If you are currently working in a licensed child care program, your fingerprints are due to expire and you have never applied for a card then you will complete the 'First Card' section of the application. The fee required is \$50.00.

Once printed submit the following *directly* to the Child Care Licensing Unit, 129 Pleasant Street, Concord, NH 03301:

- **Household and Personnel Form** (CCLU 1-B) (ensure that this form is completed in its entirety AND notarized);
- **Employment Eligibility Card Application** (CCLU 1-C); AND
- a check made payable to **Child Care Licensing Unit** for \$50.00.

Fingerprints completed more than five years ago and your card is expiring? If you are currently working in a licensed child care program, have been issued a card, and your fingerprints are due to expire then you will complete the 'Renewal Card' section of the application. The fee required is \$50.00.

Once printed submit the following *directly* to the Child Care Licensing Unit, 129 Pleasant Street, Concord, NH 03301:

- **Household and Personnel Form** (CCLU 1-B) (ensure that this form is completed in its entirety AND notarized);
- **Employment Eligibility Card Application** (CCLU 1-C); AND
- a check made payable to **Child Care Licensing Unit** for \$50.00.

Misplaced your employment eligibility card? If you have misplaced your card AND you have not been separated from employment from a NH child care provider for more than 180 days then you will complete the 'Replacement Card' section of the application. The fee required is \$15.00.

Submit the following *directly* to the Child Care Licensing Unit, 129 Pleasant Street, Concord, NH 03301:

- **Employment Eligibility Card Application** (CCLU 1-C); AND
- a check for made payable to **Child Care Licensing Unit** for \$15.00.

Have you been separated from employment from a child care provider within the state for more than 180 days?

NO - then follow the instructions listed above that fits your need.

YES - then you must, PRIOR to beginning employment in a licensed child care program, complete the entire background check process. Individuals CANNOT begin working until all information noted in #3 on the Criminal History Record Information Authorization form (CCLU 1-A) is completed, and submitted to State Police.

Instructions Revised 08/2018

KEEP COPIES OF ALL DOCUMENTATION FOR YOUR RECORDS

Please visit <http://www.dhhs.state.nh.us/DHHS/BCCL> for additional information.

If you need clarification or have any questions, we welcome your calls 603-271-9025.

NEW HAMPSHIRE DRAFTING AND PROCEDURE MANUAL

APPENDIX II-H

INCORPORATION BY REFERENCE STATEMENT

****PLEASE LIST THE FOLLOWING:**

1. Name of Agency. **Department of Health and Human Services (DHHS)**
2. Person who has reviewed the material to be incorporated into the agency's rules:
Name: **Melissa Clement** Title: **Bureau Chief**
Address: **Dept. of Health & Human Services** Phone #: **271-9004**
Child Care Licensing Unit
129 Pleasant Street, Brown Bldg.
Concord, NH 03301
3. Specific rule number where the material is incorporated: **He-C 4001.29(d)(5)a.**

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

The title of the material to be incorporated is the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration's (SAMHSA) "Evidence-Based Practices Resource Center".

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

Not applicable.

6. How the material incorporated can be obtained by the public (include cost and the address of the unrelated third party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

Publisher: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration

Cost: Free of Charge

The incorporated document is available at:

<https://www.samhsa.gov/ebp-resource-center>

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

The information is subject to copyright restrictions.

NEW HAMPSHIRE DRAFTING AND PROCEDURE MANUAL

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: 10/22/2020

Signature: Lori Shubinette

Name: Lori A. Shubinette

Title: Commissioner

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

NEW HAMPSHIRE DRAFTING AND PROCEDURE MANUAL

APPENDIX II-H

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Address: **Dept. of Health & Human Services** Phone #: **271-9004**
Child Care Licensing Unit
129 Pleasant Street, Brown Bldg.
Concord, NH 03301

3. Specific rule number where the material is incorporated: **He-C 4001.29(d)(5)d.1.**

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

The title of the material to be incorporated is the American Society of Addiction Medicine's "The ASAM Criteria" (Third Edition)

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

Not applicable.

6. How the material incorporated can be obtained by the public (include cost and the address of the unrelated third party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

Publisher: The American Society of Addiction Medicine

Cost: Member: \$85.00/ Non-Member \$95.00

The incorporated document is available for purchase at:

<https://www.asam.org/resources/the-asam-criteria>

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

The information is subject to copyright restrictions.

NEW HAMPSHIRE DRAFTING AND PROCEDURE MANUAL

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: 10/22/2020

Signature: Lori Shubiette

Name: Lori A. Shubiette

Title: Commissioner

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

NEW HAMPSHIRE DRAFTING AND PROCEDURE MANUAL

APPENDIX II-H

INCORPORATION BY REFERENCE STATEMENT

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1. Name of Agency. **Department of Health and Human Services (DHHS)**
2. Person who has reviewed the material to be incorporated into the agency's rules:
Name: **Melissa Clement** Title: **Bureau Chief**
Address: **Dept. of Health & Human Services** Phone #: **271-9004**
Child Care Licensing Unit
129 Pleasant Street, Brown Bldg.
Concord, NH 03301
3. Specific rule number where the material is incorporated: **He-C 4001.29(d)(5)d.2.**

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

The title of the material to be incorporated is the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration's "Knowledge Application Program (KAP) Resource Documents and Manuals".

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

Not applicable.

6. How the material incorporated can be obtained by the public (include cost and the address of the unrelated third party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

Publisher: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration

Cost: Free to the Public

The incorporated document is available at:

<https://www.samhsa.gov/kap/resources>

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

The information is subject to copyright restrictions.

NEW HAMPSHIRE DRAFTING AND PROCEDURE MANUAL

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Date: 10/22/2020

Signature: Lori Shibinette

Name: Lori A. Shibinette

Title: Commissioner

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

TITLE XII

PUBLIC SAFETY AND WELFARE

CHAPTER 170-E

CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES

Residential Care and Child-Placing Agency Licensing

Section 170-E:25

170-E:25 Definitions. –

In this subdivision:

I. "Child" means any person under 21 years of age.

II. "Child care agency" means any person, corporation, partnership, voluntary association or other organization either established for profit or otherwise, who regularly receives for care one or more children, unrelated to the operator of the agency, apart from the parents, in any facility as defined in this subdivision and maintained for the care of children. The types of child care agencies are defined as follows:

(a)(1) "Foster family home" means child care in a residence in which family care and training are provided on a regular basis for no more than 6 unrelated children, unless all the children are of common parentage. The maximum of 6 children includes the children living in the home and children received for child care who are related to the residents.

(2) If the limit of 6 children under subparagraph (a)(1) is reached, the foster family is willing and able to take a sibling or a group of siblings of a child already in their care, and the department has concluded that the foster family is able to provide for the safety, permanency, and well-being of the child or children, the department may, notwithstanding the limitations of subparagraph (a)(1), place the sibling or group of siblings in the foster family home.

(b) "Group home" means a child care agency which regularly provides specialized care for at least 5 but no more than 12 children who can benefit from residential living either on a short-term or long-term basis.

(c) "Specialized care" means a child care agency which regularly provides general care for children who are diagnosed as mentally ill, intellectually disabled, or physically disabled and who are determined to be in need of special mental treatment or nursing care, or both.

(d) "Homeless youth program" means a program, including any housing facilities utilized by such program, which receives any child for the purpose of providing services to facilitate independent living including all of the following program components: individual assessment, referral, housing, and case management. Such services may be provided directly by the agency or through one or more contracts for services.

III. "Child care institution" means a residential child care agency where more than 12 children are received and maintained for 24-hour care for the purpose of providing them with care or training, or both. The term "child care institution" shall not include:

(a) Any state operated institution for child care or juvenile detention established by law.

(b) Any institution, home, place or facility operating under a license pursuant to RSA 151:2.

(c) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public elementary schools or high schools, or both, and which operates on a regular academic school year basis, and which is approved by the department of education.

(d) Any bona fide summer camp.

IV. "Child-placing agency" means any firm, corporation or association which:

(a) Receives any child for the purpose of providing services related to arranging for the placement of children in a foster family home, group home, or child care institution; or

(b) Receives any child for the purpose of providing services related to arranging for the placement of children in

adoption.

V. "Commissioner" means the commissioner of the department of health and human services.

VI. "Corrective action plan" means a written proposal setting forth the procedures by which a child care agency, child care institution, or child-placing agency will come into compliance with the standards set by rule adopted by the commissioner under RSA 541-A and subject to the approval of the department. The proposal shall include the time needed to assure compliance and the steps proposed by the agency to reach compliance.

VII. "Department" means the department of health and human services.

VIII. "Experiential/wilderness facility" means a child care institution which regularly provides specialized care and training in daily living for more than 12 children but fewer than 57 children, and meets the standards established by the commissioner by rule under RSA 170-E:34, I(a).

IX. "Guardian" means the guardian of the person of a minor, as defined in RSA 463.

X. "Independent living home" means a child care agency which regularly provides specialized services in adult living preparation in an experiential residential setting for persons 16 years of age or older who have a legal relationship with the department of health and human services and who can benefit from independent living training.

XI. "License" means a complete license issued to an operator of a child care agency, child care institution or child-placing agency, authorizing the licensee to operate in accordance with the term and conditions of the license, this subdivision, and the rules of the department.

XII. "Permit" means an issuance to an operator of a child care agency or child-placing agency which shall not be renewable except for good cause shown and which may be granted for a period not exceeding 6 months to agencies whose services the department finds are needed, but which are temporarily unable to conform to the qualification for a license.

XIII. "Regularly" or "on a regular basis" means supervision and care up to and including 7 days a week service, whether continuous or not, for all types of child care subject to the provisions of this subdivision.

XIV. "Related" means any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepgrandparent, stepbrother, stepsister, uncle, aunt, niece, nephew, first cousin or second cousin.

XV. "Respite care" means substitute care provided by a person or agency which is licensed as a child care or child-placing agency.

Source. 1990, 257:8. 1992, 11:3. 1994, 212:2. 1995, 310:181. 2001, 188:1. 2006, 92:1. 2008, 52:12, eff. July 11, 2008.